George Glotzbach, Sleepy Eye.
Andrew Reid, South St. Paul.
Walter J. Mueller, Springfield.
Andrew T. Sanvik, Starbuck.
Carl H. Ruhberg, Storden.
Elizabeth C. Bahr, Waconia.
Margaret J. McGarry, Walker.
Einar C. Wellin, Willmar.
William F. Sanger, Windom.
John R. Schisler, Winthrop.
Oscar W. Groth, Wright.

NEBRASKA

Theresa Mullan, Boys Town.

PUERTO RICO

Teresa Melendez, Arroyo.
Cesar Rossy, Ciales.
Luis E. Kolb, Utuado.

HOUSE OF REPRESENTATIVES

TUESDAY, MAY 31, 1938

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Lord God of heaven and earth, hear our prayer and be attentive unto the whisperings of our hearts. We praise Thee that Thy throne is forever and ever; the scepter of Thy kingdom is righteousness. Thou who art the fount of all love and wisdom, uphold us by Thy counsel. As servants of our beloved country, enable us to be prophets of that new morning whose advancing light is evermore fully radiating the ways of the races of men and inspiring them onward toward a transfigured world. Help us to live lives of faith and good works whose fruits are joy and peace. More and more undergird our trust in Thee. Almighty God, some way, in Thine own marvelous way, lift up into Thy eternal beauty the fallen ruins of our humanity and conform its ways to Thy changeless law. Help us each day, our Father, to be sweet tempered and loving hearted. Forgive us that in which we have been amiss in seizing our opportunities. May this day be used to promote concord and to overcome evil with good. In our Savior's name. Amen.

The journal of the proceedings of Friday, May 27, 1938, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H. J. Res. 687. Joint resolution to amend title VI of the District of Columbia Revenue Act of 1937; and

H. J. Res. 693. Joint resolution making an appropriation to aid in defraying expenses of the observance of the seventy-fifth anniversary of the Battle of Gettysburg.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H. R. 7508. An act to amend the Liquor Enforcement Act of 1936; and

H. R. 9996. An act to authorize the registration of certain collective trade-marks; and

H. R. 10642. An act to amend an act entitled "District of Columbia Alley Dwelling Act," approved June 12, 1934, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 1591) entitled "An act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes."

The message also announced that the Vice President had appointed Mr. BARKLEY and Mr. GIBSON members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive Departments," for the disposition of executive papers in the following departments:

The National Archives.
The Department of Agriculture.
The Department of the Interior.
Civilian Conservation Corps.
Social Security Board.

PRINTING ADDITIONAL COPIES OF REVENUE BILL

Mr. LAMBETH. Mr. Speaker, I ask unanimous consent for the present consideration of a concurrent resolution.

The Clerk read the concurrent resolution, as follows:

House Concurrent Resolution 52

Resolved by the House of Representatives (the Senate concurring), That there be printed 38,000 additional copies of Public Law No. 554, current Congress, entitled "An act to provide revenue, equalize taxation, and for other purposes," of which 25,000 copies shall be for the use of the House document room, 10,000 copies for the use of the Senate document room, 2,000 copies for the use of the Committee on Ways and Means of the House of Representatives, and 1,000 copies for the use of the Committee on Finance of the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The House concurrent resolution was agreed to, and a motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. O'CONNOR of Montana. Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD some remarks I have prepared upon the plight of the farmer.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. O'CONNOR of Montana. Mr. Speaker, before this session closes, I want to say a few words in behalf of the farmer and add to some remarks I made relative to the farm legislation as it applies to wheat, which appears in the Appendix of the CONGRESSIONAL RECORD at page 583, volume 82. This act, or law, is, in my opinion, but the beginning of a farm program from which at some future time will emerge real relief for the farmer.

The act to which I make reference, if it accomplished no other purpose excepting the conservation of our soils, and so forth, would be worth while, as we in the past have run riot in the exploitation of what Nature afforded us to take care of this and future generations in the form of lands, and so forth; but we are not through by any means.

The farmer pays too high a rate of interest on the money which he borrows, not only upon his land but upon his livestock. You will note that other industries, according to the quotations published, borrow money at 1 percent and 1½ percent, whereas the farmers pay, even to the Federal farm loan associations, interest at the rate of 4½ percent and 5 percent, excepting the law has been changed by Congress to 3½ percent for the next 2 years. It is my contention that either we must resort to price-fixing methods of farm products or refinance the farmers on the same basis that other industries are enabled to borrow money.

I received a letter not so long ago from a friend of mine that states the case of the farmer in perhaps the most forceful and concise manner that I have heard his case stated in or out of Congress. He wrote to me about the farm program, and among other things he stated:

I have been very much interested in the farm program because I felt that the farmer's economic position was very unfavorable and very unfair, that unless something were done to equalize things and to change the economic current we would all be eventually reduced to a state of peonage, just working for interests who hold mortgages on our lands and cattle. Of course, I realize that

we cannot all make a success, nor all achieve wealth, but nevertheless when a man is willing to work hard, long hours, use fairly good judgment in his trading, has good land and good equipment, and in spite of all he can do, sees his income fail to make his expenses year after year, his crops and cattle sell for less than his cost of production in spite of every economy, then, I believe, there is something fundamentally wrong. I know you feel the same way about it, and while there may be some things about the present farm program that we will find require changing, nevertheless it is an honest attempt to do something, and that is more than we have had before.

This letter is signed by George M. Parker, of Wilsall, Mont., a farmer who has gone through the experiences that he has just related.

I do not think that anyone wants to resort, unless it is imperative, to price fixing, but I do think that we all realize that what this farmer stated is absolutely true; that he must be given a fairer deal in the economy of the carrying on of the business of the country. During the last 5 years one farm out of every six was lost or changed hands through mortgage foreclosures, taxes, or judgment sales. It is granted that the farm indebtedness has been decreased by about $2,000,000,000 within the last 5 years, but I want to call your attention to the fact that this was largely the result of mortgage foreclosures, taxes, and judgment sales. The man who owned his farm a few years ago and still owns it and was in debt, still owes that debt, and the chances are it is larger than it was then. The primary reasons for this situation, of course, are that he pays too high a rate of interest for money that he was required to borrow, and that he sells his products below cost of production. His taxes are also too high. They are based on arbitrary fixed valuation rather than upon an income valuation. The price of his farm machinery that he is required to buy is about as high now as it was during the war, with the price that he receives for his products far below the prices prevailing at that time.

A bill was introduced in Congress which, to my way of thinking, would go a long way in helping the farmer. It is known as the Frazier-Lemke refinance bill. This bill provides, among other things, that the United States Government shall refinance existing farm indebtedness at 1½-percent interest and 1½-percent principal amortization plan, not by issuing bonds but by issuing Federal Reserve notes to be secured by first mortgages upon the farm lands. I do not need to tell you that this is the best security on earth. Our mines will become exhausted in time, of course, leaving in their wake gaping wounds in the earth. But the productive lands, if taken care of, will continue to produce so that this and future generations may continue to eat and live comfortably.

Therefore, Mr. Speaker, our lives and our future depend upon the farms. Since I have been in Congress, I took part in reducing the farm mortgage interest to Federal farm loan associations to 3½ percent and 4 percent. This will continue for a period of 2 years longer, as the House granted the last extension the other day. Now, in addition to the rate of interest we are now paying the farm loan agencies, the farmer is required to buy stock in an amount equal to 5 percent of the loan. Under the Frazier-Lemke bill, he would be able to pay 1½-percent interest and 1½-percent principal on $30,000 in approximately 47 years. Under the Frazier-Lemke bill a farmer could carry his $10,000 mortgage loan as far as his ability to pay goes as easily as one-half of that amount could be carried under the present law. This bill is a strong attempt to preserve and conserve the American farms and farm homes.

Who is there to raise the question that the stability of any nation does not rest upon self-reliant home owners and farmers of the country? It has been truthfully said that a farmer without a home is like a man without a country. We must make a concerted and aggressive drive in the future in Congress to preserve the homes for our people and keep them in the hands of the men and women who accumulated them, and not let them get into the possession of loan sharks, and so forth.

It has been said that this would cause inflation. May I ask which is the worse form of inflation, Federal Reserve notes used as a revolving fund sufficient to take care of the refinancing of the farm mortgages, or issuing interest-bearing bonds and paying the interest to the banks? Our Government now prints Federal Reserve notes and gives them to the Federal Reserve banks for the cost of printing. Is it not a fact, also, that the Government would save the interest it is now paying to the bankers upon these bonds under this form of financing? As I understand, there are between three and four billion of these Federal Reserve notes outstanding at the present time. If the Government can do this for the bankers, why may it not do the same thing for the 32,000,000 people who depend upon the farms? This bill, in my opinion, should be passed by Congress. I signed a petition to take the bill away from the Rules Committee and place it upon the House calendar, and with the assistance of Mr. LEMKE and many others feeling as we do about the matter, 140 Members of Congress have signed this petition and demanded that the committee report the bill out and then to be brought up on the floor for passage. Under a rule adopted by the House it requires a majority of the Members, 218, to take a bill from the Rules Committee when it will not grant a rule.

It is not possible to get this bill through this session of Congress, but it or one like it will go through next Congress. The people will demand it, and I do not think Congress will long refuse to act.

It was pointed out on the floor of the House by the distinguished chairman of the Agricultural Committee at the special session of Congress that even Alexander Hamilton said that farmers should receive bounties in order to place them on a par with the protected industries. The farmers will not need a bonus or bounty if they get a fair and square deal. They will be able to look after themselves. But up to date they have not been treated as other classes of business.

We passed the wage and hour bill for the benefit of the laboring man. Now let our next step be a substantial improvement of the farmer's condition.

Mr. FLANNAGAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include an address I delivered at Valley Forge.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

RIGHT-OF-WAY ACROSS KELLY FIELD, TEX.

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 10737) to authorize the Secretary of War to grant rights-of-way for highway purposes and necessary storm sewer and drainage ditches incident thereto upon and across Kelly Field, a military reservation in the State of Texas; to authorize an appropriation for construction of the road, storm sewer, drainage ditches, and necessary fence lines.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, as I understand this bill, it is optional with the Secretary of War whether he shall provide this right-of-way?

Mr. MAVERICK. It is optional with him. If certain conditions are complied with by the State of Texas and Bexar County, which I represent, then the Secretary of War is authorized to proceed.

Mr. MARTIN of Massachusetts. What are these conditions?

Mr. MAVERICK. The conditions are that the State highway commission shall put up $194,000 for an underpass, and then the Government will put up about $60,000 to pay for a long road through this field which they have wanted to remove for a long time.

This bill has been reported unanimously by the Committee on Military Affairs. It has been requested by the War Department. It has not been objected to by the Budget and it is desired by the county of Bexar and the State of Texas.

Mr. MARTIN of Massachusetts. Will there be any value to the Federal Government?

Mr. MAVERICK. Oh, yes, very great; in fact, it is absolutely necessary because this is the Advanced Flying School of the United States Army. They have been wanting this road removed for over 5 years at this flying field. There are two air fields there, the Duncan, which is a mechanical and repair unit, and Kelly Field, mentioned in this bill.

Mr. MARTIN of Massachusetts. This is merely an authorization?

Mr. MAVERICK. An authorization of $60,000.

Mr. RICH. Mr. Speaker, reserving the right to object, will the gentleman tell us where he is going to get the $50,000?

Mr. MAVERICK. It is $60,000, my good friend.

Mr. RICH. Can the gentleman tell us where he is going to get the $60,000?

Mr. MAVERICK. I presume there is that much left.

Mr. RICH. Where?

Mr. MAVERICK. I trust there is that much left in the Treasury.

Mr. RICH. There is not anything in the Treasury; not a dollar. It is all gone——

Mr. MAVERICK. A sad state of affairs, if true. However, I will take my chances on that—if this Congress authorizes the expenditure, I believe the boys down at the Treasury can scrape up $60,000. [Laughter.]

Mr. Speaker, I urge the passage of this measure, authorizing the expenditure of $60,000, but I would like to fully explain that Kelly Field is the Advanced Flying School, and that the War Department desires its development as the Advanced Flying School of America. It is essential that this bill go through in order to complete the final development.

I should like to call attention of the House also to the fact that heretofore I introduced a bill for the creation of an aeronautical academy on the same plane as the military and naval academies, and to further provide for aviation education in the colleges over America. The aim in that bill, H. R. 10350, is also to greatly increase the participation of the National Guard and the Reserve Corps in aviation.

AERONAUTICAL ACADEMY IN SAN ANTONIO; TRAINING EXTENDED OVER NATION

At the time I introduced the resolution I made an accompanying statement and clearly set out that the academy would be in my own district, where Randolph and Kelly Fields are located, the two flying schools of the Army. In fact, military aviation education was established there in 1917, at the outbreak of the World War. Even as early as 1910, the very first Army flights were held in San Antonio, since it has a large concentration of military posts.

But as pointed out by that bill, aviation education would be extended all over the United States. The land-grant universities now have units of various arms of the service; why not let them each have an aviation branch? It could be done without very heavy expense, since two or three airplanes, with a few enlisted men and one or two officers, could be assigned out of the available Air Corps itself.

TWO THOUSAND FIVE HUNDRED AIR CADETS A YEAR; AVIATION HOBBY IN PEACE, NECESSITY IN WAR

Out of a cadet corps of several hundred, and in case of an institution like the University of Wisconsin, where there are several thousand, surely from 50 to 100 boys could be selected who could pass the rigid mental and physical tests. Our Nation could begin with 5 or 10 universities and colleges, building up to 50, and, with an average of 50 flying cadets each, we could be training some 2,500 cadets per annum.

The graduates of these colleges would be Reserve officers in the Air Corps, as they now are in other branches of the service. Many would pursue their professions or business and pursue aviation as a hobby in peace and a necessity if war came. Others could become officers in the enlarged aviation units of the National Guard.

One more word about the two flying schools in my own district. Randolph Field, the Primary Flying School, is already the greatest military flying field and aviation school in the world, with modern buildings, hangars, barracks, roads, and equipment. Kelly Field, on the other side of San Antonio, the Advanced Flying School of the Army, sits side by side with Duncan Field, a mechanical and repair unit.

On Kelly Field millions have been spent since 1917, and it is an excellent flying field. But some of the barracks and hangars were built in the World War and are in a dilapidated and rotting condition. In fact, their condition is outrageous. No Member of Congress would stand for such a condition for the boys quartered at the Naval or Military Academy, and should not for the boys in the flying schools either.

RECOGNIZE AVIATION TRAINING BY CREATING UNITED STATES AERONAUTICAL ACADEMY

I make this frank explanation because I know that I must convince my own colleagues and the country upon so important an activity which exists in my own county and district. But as far as that is concerned, the Military and Naval Academies are in particular counties and districts of certain Congressmen, and the aviation training unit happened to be established in mine. Naturally, I want to improve it, and I can show it is a national necessity.

Therefore, if not only this small appropriation is adopted but also my bill creating the United States Aeronautical Academy, it will be principally the adoption of a name, and recognition by the Nation of the importance of aviation training. And as I have several times pointed out, training would not be prevented in additional fields, and would be extended all over the United States.

EDITORIAL COMMENT FAVORABLE ALL OVER NATION

Editorial comment concerning my bill for aviation training has appeared all over the Nation, and I believe in every State in the Union. I am pleased to state that out of several hundred editorials all are in approval of the idea in varying degrees of enthusiasm.

BALTIMORE EVENING SUN AND THE SACRAMENTO BEE

The first one that I noticed was from the Baltimore Evening Sun, May 8 (21 years to a day that I entered the training camp in the war at 21, making me 42), and under the title of "Maury's Academy," described the bill, and commented that the academy would surely be established.

The Sacramento (Calif.) Bee concluded a long editorial as follows:

Its early approval would constitute a real service to the country. More trained pilots must be secured. Expanding Army and Navy flying units cry out for fliers who are as expert as the best training can make them. An aeronautical school, such as Congressman MAVERICK envisages, would meet the requirements as no half-way measures can or will.

The Milwaukee (Wis.) Leader believes the bill is sound:

The building of a large fleet of airplanes and the training of aviators would be comparatively inexpensive and it would make the United States impregnable. The country would not need a super-Navy, and it would not need a large Army. The general principle of the Maverick bill is sound.

ALL HEARST PAPERS STRONGLY SUPPORT

The New York Journal-American and San Antonio Light, as well as all Hearst newspapers in the country, on May 11 said, "He (MAVERICK) should have the utmost public support in that endeavor," and then concluded:

Captain Rickenbacker emphasized the need for what Mr. MAVERICK now proposes—an air academy on the West Point-Annapolis scale, and the training of air cadets for the Air Reserve in schools and colleges through the Nation. The United States is grievously weak in air defense manpower. The Maverick bill makes this entirely clear in saying that we now have approximately only 1,600 officers on flying status in the Air Corps Reserve.

That is inexcusable national weakness. It would be a tragic and probably fatal weakness in the event of a war. The very earnestness with which we desire peace should make us insist on having the greatest air force in the world. That would make us the safest nation in the world, the surest of peace of all nations, because the strongest in defense.

The Maverick bill, therefore, should have early and favorable action in furtherance of our national desire for peace and security.

The Chicago News commented that "it would seem that so generously conceived an experiment might be worth trying," and the Syracuse (N. Y.) Post-Standard said as follows:

Bexar County in his home State is the place provided for the new academy by MAVERICK. There are many valid arguments for such a location if determination is reached to have such a

school, for Texas has been the scene of a great deal of our national development of air fighters.

He (MAVERICK) may lose out at the present session, but that does not mean the proposal is dead. MAVERICK keeps things alive, once he espouses them, and as Texas sends Congressmen back about as long as they desire to stay in Washington, he seems reasonably assured of reelection to press the matter at the next session, with even stronger support from his colleagues from the Lone Star State.

MAVERICK BILL INTRODUCES PROGRESSIVE STEP

And then the Asbury Park (N. J.) Press, on May 15, said as follows:

Congressman MAVERICK's bill providing for aeronautical training in land-grant colleges now offering military training introduces a progressive step. There is a growing demand for trained aviators and aeronautical experts not only in the Army and Navy, where an emergency would exhaust a reserve corps several times as large as any now available, but also in commercial flying.

Also:

It would be difficult to conceive of a better plan for strengthening the national defense and at the same time contributing to the development of commercial aviation by supplying it with trained men.

While the Huntington (W. Va.) Advertiser says that—

The agitation started in Congress by MAURY MAVERICK, of Texas * * * is no misdirected movement.

And the New York Mirror, a vigorous supporter of the bill, says:

The course is all mapped out for making America air-minded. It is written in a bill numbered H. R. 10350, sponsored by Congressman MAURY MAVERICK, of Texas.

The Mirror continues:

There is so much plain common sense in that bill that even a pacifist could not find fault with it. Every other important nation has special schools for training their young men to fly and to fly safely.

From Boston, Mass., we find the Post at least curious and recommending investigation. It says:

A West Point of the air may be necessary. At any rate, its value should be investigated by experts who hope to gain no advantages for the Army or naval bloc in Congress.

THERE WILL BE ENORMOUS DEVELOPMENT AT KELLY FIELD

Mr. Speaker, I have wandered afield from the discussion of the bill for the right-of-way for Kelly Field, and have gone into a discussion of the whole aviation center which is located in and around San Antonio, Tex. I have done this in order to have the records show, and for the Nation to know, the great development at that point.

In the course of the next few years it will only be natural that many millions of dollars will be spent upon that development. Aviation is rapidly developing—we have only 15,000 trained pilots and 29,000,000 automobiles—and if there is only 1 percent development in aviation as there has been of the automobile, there will be an enormous demand for trained aviators and, of course, an enormous demand for air fields.

I desire to thank the House for its patience in listening to this discussion of the fields in my own district, and I request an affirmative vote in the passage of this small and initial bill, which will undoubtedly lead to enormous development at Kelly Field.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to grant an easement for rights-of-way to Bexar County, State of Texas, for construction of a road and fence across the southern portion of Kelly Field, a military reservation in the State of Texas, from a point known as Leon Creek to a point known as the Quintana Road, and an underground storm sewer and open drainage ditches incident thereto, upon such conditions as the Secretary of War may prescribe: *Provided*, That in exchange Bexar County will convey to the United States its right, title, and interest in the site of the present road, which will be abandoned and closed, and which is described as that portion of the present Pearsall Road, approximately 60 feet wide, extending from the north line of Kelly Field, Tex., southwesterly approximately 10,650 feet to the north line of the proposed new road: *And provided further*, That Bexar County shall be allowed to salvage the surfacing materials from said road to be abandoned and closed.

SEC. 2. There is hereby authorized to be appropriated the sum of $60,000, or such amount thereof as may be necessary, for the construction of the hereinbefore-described road, storm sewer, and drainage ditches, including such fence or fences as are deemed necessary by the Secretary of War by reason of the construction of said road: *Provided*, That said sums shall be made payable to Precinct No. 1, Bexar County, State of Texas, after the Secretary of War determines that said road, storm sewer, drainage ditches, and fence or fences have been satisfactorily completed: *And provided further*, That Bexar County shall maintain said road after its completion and constantly make needed repairs thereto to preserve a smooth-surfaced highway.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MONUMENT TO THE MEMORY OF GEN. PETER GABRIEL MUHLENBERG

Mr. ROBERTSON. Mr. Speaker, I ask unanimous consent for the present consideration of House Joint Resolution 631.

The Clerk read the House joint resolution, as follows:

House Joint Resolution 631

Resolved, etc., That the sum of $50,000 be, and the same is hereby, authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the erection of a monument to the memory of Gen. Peter Gabriel Muhlenberg, at Woodstock, in the State of Virginia, with the advice of the Commission of Fine Arts. The said sum shall be expended under the direction of the Secretary of the Interior: *Provided*, That the county of Shenandoah or the citizens thereof shall cede and convey to the United States such suitable site as may in the judgment of the Secretary of the Interior be required for said monument: *And provided further*, That the United States shall have no responsibility for the care and upkeep of the monument.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, has this been acted upon by the committee?

Mr. ROBERTSON. This has been unanimously reported by the Library Committee and has the endorsement of the Fine Arts Commission. The gentleman from New York [Mr. WADSWORTH] objected when this bill was called during consideration of bills on the Consent Calendar. I discussed the matter with him Friday afternoon when I considered making this request. He told me he could not be here that afternoon. I asked him what he wanted me to do. He said, "Anything you please."

Mr. MARTIN of Massachusetts. Has the gentleman told any Republican member of the Committee on the Library he was going to call the bill up at this time?

Mr. ROBERTSON. No, I did not do that; because I understood they were all for the bill. As a matter of fact, one Republican member of the Committee on the Library was very active in getting the bill out of the committee, and he thought it was a very splendid undertaking.

Mr. MARTIN of Massachusetts. I do not see any member of that committee here at the moment. I believe the gentleman had better withdraw his request until some member of that committee is here.

Mr. ROBERTSON. I can assure the gentleman from Massachusetts that all the Republican members of the Committee on the Library approved this bill. One of them was very active in behalf of it. He said he thought it was a splendid undertaking. This bill helps to cement the friendship of two great States, Pennsylvania and Virginia, and pays an honor to an outstanding hero of the Revolutionary period who has never been nationally recognized as he should have been.

Mr. RICH. Reserving the right to object, Mr. Speaker, I may say we passed Public Law No. 292 in the Seventy-fourth Congress, to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes. Section 3 of this bill provided for the creation of a board known as the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. Has that Board approved this project?

Mr. ROBERTSON. This project was referred to the National Park Service, which reported that the matter did not

come under that law because this was a personal monument. The matter was then referred to the Fine Arts Commission, and the Chairman of that Commission appeared at the time the bill was before the committee. He did not testify, but he did talk with some members of the committee and with me, and he told me that this was a fine, splendid undertaking. I may say further that this project has the endorsement of the entire Lutheran Church of America. They are vitally interested in it. The Daughters of the American Revolution are also interested in it. This is not just a project of local interest; it is a national shrine that we propose to build.

Mr. RICH. Certainly, it is fine if you are trying to protect the Lutheran Church of America, because the gentleman knows what happened to the Lutheran Church in Germany. We do not want that to happen here.

Mr. ROBERTSON. The man in whose honor this monument is to be erected was a great Lutheran preacher, a preacher who loved his country, a preacher who called on his flock to fight for liberty, political as well as religious liberty, which are handmaidens, as the gentleman knows.

Mr. RICH. Does the gentleman believe that if this monument is erected here in America we will still have people fighting for American liberty?

Mr. ROBERTSON. I believe it will be an inspiration to the youth of the Nation to be true to the principles of our country. [Applause.]

Mr. RICH. I was going to oppose this bill, but if the gentleman will assure me that it will help to preserve American liberty, I will certainly have to let the bill pass.

Mr. ROBERTSON. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 3, after the word "of", strike out "$50,000" and insert "$25,000."

The committee amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MEMBERSHIP OF GENERAL STAFF CORPS

Mr. MAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3843) to remove certain inequitable requirements for eligibility for detail as a member of the General Staff Corps for immediate consideration.

The Clerk read the title of the bill.

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker, will the gentleman explain what this bill does?

Mr. MAY. I shall be pleased to explain the bill, Mr. Speaker; and the first thing I want to say is that the bill does not call for the expenditure of any additional money.

Mr. MARTIN of Massachusetts. That is somewhat of a recommendation.

Mr. MAY. Under the existing law the General Staff is compelled to make up its detail of officers from students of either the War College or the Army school at Fort Leavenworth, Kans. It has been found that this is hampering the work and the efficiency of the General Staff. There are many officers in the service who have never seen either the War College or the Army school at Fort Leavenworth. Enabling the General Staff to use these Army officers means efficiency for the staff.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the first paragraph of section 5 of the National Defense Act of June 3, 1916 (39 Stat. 166), as amended by the act of June 4, 1920 (41 Stat. 759), be, and the same is hereby, amended to read as follows:

"SEC. 5. General Staff Corps: The General Staff Corps shall consist of the Chief of Staff, the War Department General Staff, and the General Staff with troops. The War Department General Staff shall consist of the Chief of Staff and 4 assistants to the Chief of Staff selected by the President from the general officers of the line, and 88 other officers of grades not below that of captain. The General Staff with troops shall consist of such number of officers not below the grade of captain as may be necessary to perform the General Staff duties of the headquarters of territorial subdivisions, appropriate installations, General Headquarters, armies, army corps, divisions, General Headquarters Air Force, brigades, and similar units, and as military attachés abroad. In time of peace the detail of an officer as a member of the General Staff Corps shall be for a period of 4 years unless sooner relieved."

SEC. 2. That the second paragraph of section 5 of the National Defense Act of June 3, 1916 (39 Stat. 166), as amended by the act of September 22, 1922 (42 Stat. 1032), be, and the same is hereby, rescinded.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. THOMPSON of Illinois. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including an address delivered by the Honorable Louis Johnson, Assistant Secretary of War, at Rock Island, Ill., several days ago.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent that on Thursday of this week at the conclusion of the legislative business of the day I may be permitted to address the House for 25 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

COMMITTEE ON THE JUDICIARY

Mr. CELLER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit during the afternoon session and consider various bills, including the bill (H. R. 6449) to amend the act entitled "An act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes."

Mr. HOBBS. Mr. Speaker, I make a point of order against that request.

The SPEAKER. A unanimous-consent request has been submitted by the gentleman from New York.

Mr. HOBBS. I challenge the correctness of the statement that there was any request from the Committee on the Judiciary that it be permitted to sit for the consideration of the bill to which the gentleman has referred.

Mr. CELLER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit during the sessions of the House this afternoon to consider various bills.

Mr. HOBBS. I make the same point of order, Mr. Speaker.

Mr. CELLER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit during the sessions of the House this afternoon.

Mr. HOBBS. I object, Mr. Speaker.

ARMY MEDICAL LIBRARY AND MUSEUM BUILDING, DISTRICT OF COLUMBIA

Mr. MAY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 10455) to authorize the Secretary of War to to proceed with the construction of certain public works in connection with the War Department in the District of Columbia.

The Clerk read the title of the bill.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, and I may say I am going to object, not because I have any objection to the bill, but because I believe we are developing a bad practice here. Members get up and ask unanimous consent for the passage of bills without the minority membership of the committee being present;

and unless that situation is taken care of in the future I shall be constrained to object.

I object to the request, Mr. Speaker.

AMENDMENT OF FEDERAL AID ROAD ACT

Mr. CARTWRIGHT. Mr. Speaker, I ask unanimous consent that I may have until midnight tonight to file a conference report and statement on the bill (H. R. 10140) to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes.

Mr. WOLCOTT. Mr. Speaker, reserving the right to object, I want to propound a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WOLCOTT. I understand that one of the House conferees refused to sign the conference report and expected to file a minority report. My parliamentary inquiry is whether a member of the conference committee may file a minority report, or whether there is any provision in the rules covering that matter.

The SPEAKER. In answer to the parliamentary inquiry of the gentleman from Michigan, the Chair will state that under the rules there is no provision whereby a minority member of a conference committee may file minority views on a conference report.

Mr. WOLCOTT. A further parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it

Mr. WOLCOTT. May a member file a minority report as a part of the proceedings without having it printed as a part of the conference report?

The SPEAKER. The member can extend his remarks in the RECORD and present his views, but not officially as a part of the conference report.

Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10140) to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 23, 24, 25, 26, and 28.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 27, and to the amendment to the title; and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$100,000,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "$15,000,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: At the beginning of said amendment, strike out: "Sec. 15.", and insert in lieu thereof: "Sec. 13"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: At the beginning of said amendment, strike out: "Sec. 16.", and insert in lieu thereof: "Sec. 14"; and the Senate agree to the same.

WILBURN CARTWRIGHT,
LINDSAY C. WARREN,
WILL M. WHITTINGTON,
JESSE P. WOLCOTT,
Managers on the part of the House.
KENNETH MCKELLAR,
CARL HAYDEN,
J. W. BAILEY,
W. J. BULOW,
LYNN J. FRAZIER,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10140) to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

On amendment No. 1: Amends the provision of the House by inserting the words "and supplemented" in connection with reference to a previous act.

On amendment No. 2: Authorizes $100,000,000 for regular Federal aid for the fiscal year ending June 30, 1940, instead of $125,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

On amendment No. 3: Authorizes $115,000,000 for regular Federal aid for the fiscal year ending June 30, 1941, as proposed by the Senate, instead of $125,000,000, as proposed by the House.

On amendment No. 4: Corrects a typographical error.

On amendment No. 5: Amends the provision of the House so that Federal aid funds will not be available for maintenance of roads in the District of Columbia, but only for construction.

On amendment No. 6: Authorizes $15,000,000 for secondary roads for the fiscal year ending June 30, 1940, instead of $25,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

On amendment No. 7: Authorizes $15,000,000 for secondary roads for the fiscal year ending June 30, 1941, instead of $25,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

On amendment No. 8: Strikes out the proposal of the House to permit expenditure of funds for grade-crossing eliminations only on the Fedral-aid highway system, leaving the present law as it is.

On amendment No. 9: Authorizes $20,000,000 for grade-crossing eliminations for the fiscal year ending June 30, 1941, as proposed by the Senate, instead of $50,000,000, as proposed by the House.

On amendment No. 10: Authorizes $30,000,000 for grade-crossing eliminations for the fiscal year ending June 30, 1941, as proposed by the Senate, instead of $50,000,000, as proposed by the House.

On amendment No. 11: Authorizes $10,000,000 for the fiscal year ending June 30, 1940, for forest highways, roads, and trails, as proposed by the Senate, instead of $14,000,000, as proposed by the House.

On amendment No. 12: Authorizes $13,000,000 for the fiscal year ending June 30, 1941, for forest highways, roads, and trails, as proposed by the Senate, instead of $14,000,000, as proposed by the House.

On amendment No. 13: Provides that the apportionment for forest highways in Alaska shall be $400,000 for each of the fiscal years ending June 30, 1940, and June 30, 1941, as proposed by the Senate, instead of $500,000, as proposed by the House.

On amendment No. 14: Authorizes $1,000,000 for the fiscal year ending June 30, 1940, for public land roads, as proposed by the Senate, instead of $2,500,000, as proposed by the House.

On amendment No. 15: Authorizes $2,000,000 for the fiscal year ending June 30, 1941, for public land roads, as proposed by the Senate, instead of $2,500,000, as proposed by the House.

On amendment No. 16: Authorizes $4,000,000 for the fiscal year ending June 30, 1940, for national-park roads and trails, as proposed by the Senate, instead of $7,500,000, as proposed by the House.

On amendment No. 17: Authorizes $5,000,000 for the fiscal year ending June 30, 1941, for national-park roads and trails, as proposed by the Senate, instead of $7,500,000, as proposed by the House.

On amendment No. 18: Authorizes $6,000,000 for the fiscal year ending June 30, 1940, for national parkways, as proposed by the Senate, instead of $10,000,000, as proposed by the House.

On amendment No. 19: Authorizes $8,000,000 for the fiscal year ending June 30, 1941, for national parkways, as proposed by the Senate, instead of $10,000,000, as proposed by the House.

On amendment No. 20: Amends the provision of the House that location of parkways upon public lands shall be determined by agreement between the department having jurisdiction over such lands and the National Park Service, by inserting the word "hereafter."

On amendment No. 21: Authorizes $2,500,000 for the fiscal year ending June 30, 1940, for Indian roads, as proposed by the Senate, instead of $4,000,000, as proposed by the House.

On amendment No. 22: Authorizes $3,000,000 for the fiscal year ending June 30, 1941, for Indian roads, as proposed by the Senate, instead of $4,000,000, as proposed by the House.

On amendment No. 23: Strikes out the proposal of the Senate to make certain funds available for surveys, plans, and engineering and economic investigations of projects, without being matched by the States.

On amendment No. 24: Strikes out the proposal of the Senate to amend the provision of the House relating to sums withheld from the Federal-aid funds apportioned to any State as a penalty for diversion of road-user taxes by providing that such sums "shall be reapportioned" to the States, instead of the proposal of the House that such sums "are hereby authorized to be made available for reapportionment."

On amendment No. 25: Strikes out the proposal of the Senate to amend the existing law relating to diversion of road-user taxes to nonhighway purposes by the States.

On amendment No. 26: Strikes out the proposal of the Senate to change a section number.

On amendment No. 27: Amends the provision of the House relating to competition in highway construction to make the provision apply also to methods of bidding.

On amendment No. 28: Strikes out the proposal of the Senate to insert a new section providing that the Secretary of Agriculture shall determine and fix standards of design which shall control and be applied in the construction of highways and bridges.

On amendment No. 29: Directs the Chief of the Bureau of Public Roads to investigate and make a report of his findings and recommend to the Congress not later than February 1, 1939, with respect to the feasibility of building and cost of superhighways, not exceeding three in number, running in a general direction from the esatern to the western portion of the United States, and not exceeding three in number running in a general direction from the northern to the southern portion of the United States, including the feasibility of a toll system on such roads, as proposed by the Senate.

On amendment No. 30: Provides that this act may be cited as the Federal Aid Highway Act of 1938, as proposed by the Senate.

The Senate also proposed to amend the title so as to read: "An act to amend the Federal Aid Act, approved July 11, 1916, as amended and supplemented, and for other purposes."

WILBURN CARTWRIGHT,
LINDSAY C. WARREN,
WILL M. WHITTINGTON,
JESSE P. WOLCOTT,
Managers on the part of the House.

Mr. MOTT. Mr. Speaker, in reply to a parliamentary inquiry, the Speaker has ruled that there is no authority in the House for the filing of minority views with and as a part of a conference committee report. Therefore, I have asked for and have been granted leave by unanimous consent to extend my remarks at the point in the RECORD immediately following the copy of the conference report on H. R. 10140, as printed in the RECORD. I appreciate the consent of the House in this regard because it enables me to lay before it the dissenting views which I would have attached to the conference report had there been authority to do so.

MINORITY VIEWS OF MR. MOTT

I am unable to concur in the views and recommendations of the majority of my colleagues of the committee of conference upon the Senate amendments to the 1938 Federal aid highway bill, H. R. 10140. Therefore, I respectfully dissent from the foregoing conference report, and submit the following views in opposition to its adoption.

H. R. 10140 originated in the House. It authorized appropriation of $238,000,000 for Federal aid to States for road building for each of the fiscal years 1940 and 1941, or a combined authorization for the 2 years of $476,000,000. The break-down of these authorizations as provided in the House bill is as follows:

Regular Federal aid	$125,000,000
Secondary or feeder roads	25,000,000
Elimination of grade crossings	50,000,000
Forest highways, roads and trails	14,000,000
Public-lands highways	2,500,000
National park roads and trails	7,500,000
National parkways	10,000,000
Indian reservation roads	4,000,000
	238,000,000

The House bill was reported unanimously by the House Committee on Roads at the conclusion of hearings extending over a period of 3 weeks. Expert testimony was given by 80 witnesses, among whom were many of the most outstanding authorities on road legislation in the United States. The testimony of these experts covers 699 pages of the printed hearings. The hearings were public and open to everyone, and yet no single witness appeared in opposition to the House bill.

In spite of the President's road bill reduction measure, which came in before the hearings opened and to which I shall later refer, every Government witness, including the Chief of the Bureau of Public Roads, the representatives of the Forest Service, the Interior Department, the C. C. C., and the National Park Service, gave emphatic testimony in favor of reporting H. R. 10140 to the House without amendment. Representatives of many of the highway commissions of the 48 States appeared before our House Committee on Roads. Without exception all of these State highway commissions or departments urged that the full amounts for Federal aid to States for road building, as provided in the House bill, be retained.

It is doubtful whether any bill in recent years has received from a committee such thorough, complete, and scientific consideration as that given to the 1938 road-authorization bill by the Roads Committee of the House. The best evidence of this is the fact that after several hours of debate in the House under an open rule providing for unlimited amendment, the House passed the bill without any important amendment, without reducing any of the authorizations in the bill, and without a single dissenting vote.

The bill, having thus passed the House, was sent to the Senate and was referred to the Senate Committee on Post Offices and Post Roads. The Senate committee, after holding the bill for 1 week but without having held any public hearings thereon after the House had passed it, reported it to the Senate with amendments reducing by $161,000,000 the amounts authorized by the House bill for the combined fiscal years 1940 and 1941. The Senate passed the bill in its amended form as reported by the Senate committee, with little debate and, as I am informed, with less than one-third of the Senators present on the floor at the time the bill was passed. It is obvious, therefore, that H. R. 10140, after it passed the House, was given slight consideration either by the Senate committee or by the Senate itself.

In conference $35,000,000 of the reductions made by the Senate were restored, and the conference report now before us recommends a net reduction in the amounts authorized by the House bill of $126,000,000 for the combined fiscal years 1940 and 1941, or an average reduction of $63,000,000 for each of the years 1940 and 1941.

My reason for dissenting from the report of the majority of the conferees is that the record discloses no single fact, nor any testimony whatsoever, either before the House or Senate Roads Committee or the conference committee, upon which the reductions recommended in the conference report can be justified, and that no member of the Roads Committee of either body, so far as I have been able to learn, is personally in favor of the reductions recommended in the conference report.

A number of members of the conference committee who signed the conference report frankly stated in committee that there was no ground upon which these reductions could be defended, and that the only reason for recommending them was because the President had demanded them and that in their opinion he would veto the bill unless the House and Senate agreed to the reductions.

It is unnecessary for me here to make any defense of H. R. 10140 as unanimously reported by the House Committee on Roads and as unanimously passed by the House. It needs no defense. The unanimous vote of the House is the best evidence of the real convictions of the Members of the House in that matter. If now the House wishes to accept the Senate amendments and to acquiesce in the arbitrary and indefensible reduction of $126,000,000 from the House bill simply because the President has demanded these reductions, the House may do so. As a Member of the lawmaking department of the Government, I do not care to be a party to the slashing of the admittedly necessary authorizations in this bill just because the Chief of the executive department of the Government wants them slashed. If the actions of the Congress in the performance of its constitutional lawmaking duties and responsibilities are to depend solely upon the desires of the Chief Executive, the Congress, in my opinion, may as well adjourn permanently.

An effort was made in the Senate committee report to justify the Senate amendments upon the alleged ground that there will be available to the States as a carry-over from apportionments made under previous highway legislation of $80,000,000 for regular Federal aid and a carry-over of $20,000,000 for feeder roads, as well as carry-overs for forest roads, grade-crossing elimination, public-land roads, and all other items included in the road-authorization bill.

This contention, in the opinion of all with whom I have discussed it, is mere sham and cannot be sustained by any facts whatever. It is purely a subterfuge to conceal the bald fact that the House is being asked to acquiesce in the Senate amendments solely because the President has demanded it. The carry-overs mentioned in the conference report may exist in theory and on paper, but that is all. The average State at the time the 1940 Federal-aid road money becomes available will have no carry-over at all, and I think every member of the conference committee is fully aware of that fact.

In order to confirm my own conviction upon this point, so far as my own State is concerned, I wired the Oregon Highway Commission asking for the facts in this regard. I received the following reply:

Reasonably anticipated revenues indicate State will be able to take up in orderly manner entire 1940 and 1941 authorization contained in House bill. Major portion of funds stated by Bureau of Public Roads to be available to Oregon is from 1939 authorization only recently available. Obviously orderly and efficient procedure requires contracting of these sums to be spread over 12 months' period. Substantially all 1939 allocations will be obligated before 1940 moneys available. Full amounts authorized in House bill needed to continue orderly improvement program of highways in this State.

HENRY F. CABEL,
Chairman, Oregon Highway Commission.

If any Member of the House or Senate believes that his State will have a carry-over of Federal-aid highway funds at the time the Federal-aid money becomes available to his State under H. R. 10140, I respectfully suggest that such Member wire his own State highway department before voting to accept the Senate amendments. I would have no hesitancy in assuring that Member that in all probability he will receive substantially the same reply to his telegram as that contained in the telegram from the Oregon Commission which I have quoted.

I have no desire here to criticize the President's well-known views and theories on road legislation. I simply call attentention to the fact that he made his views and theories upon this subject perfectly clear to everyone long before the House passed H. R. 10140, and that every Member of the House was fully aware of them when he voted for this bill. In the early part of the session the President in his message asked that the 1939 road-aid authorization be canceled altogether. He further recommended that the appropriation to be made this year for Federal aid to States for road building in 1939 be reduced by approximately 60 percent. He went further and asked that for the next few years road authorizations be reduced to $125,000,000 annually, an amount little more than half of that which the States are now, and for a number of years past have been, receiving in Federal aid for road building. He made this recommendation in the face of the fact road mileage and road users are increasing at a more rapid rate than ever before and that such a great reduction would not only disrupt the road program of every one of the 48 States but would throw thousands upon thousands of men out of employment and onto relief. Furthermore, he made that recommendation in the face of the fact that the Federal Government is collecting from the road users of the several States approximately $350,000,000 per year in Federal gasoline and other automotive taxes, or nearly three times as much as the President in his message proposed that the States should be granted by way of Federal aid in road building.

But the President did not stop there. He went still further and asked the Congress to repeal that part of the Federal-aid road law which provides that when Federal-aid road funds are authorized and apportioned to the States the apportionment becomes a Federal obligation to the States. This provision, as everyone knows, is the heart of our Federal-aid road policy, without which no State can intelligently plan or carry out an orderly road-building program.

I say I have no desire here to criticize the President's views and theories on road legislation, and I am not here criticizing them. I am simply reminding my colleagues what those views and theories are. In this connection I may observe, however, that I have never yet seen a Member of Congress who agrees with the President's ideas and theories in this regard. The refusal of the House to act upon any of the recommendations contained in the President's message, and its unanimous approval and passage of H. R. 10140, as reported from the committee, is ample proof of that.

In conclusion may I again submit that no legitimate reason has yet been advanced why the House should concur in the Senate amendments or why it should adopt the conference report. Admittedly the only reason that can be urged for any of the reductions recommended in the conference report is that the President has demanded them; and in that regard I respectfully suggest, in view of the President's known attitude toward road legislation, that his wishes alone in this matter do not constitute a reason sufficient to warrant the House in crippling its own road-authorization bill, the merit and the necessity of which is openly and frankly admitted by every Member of this body, and which only a month ago was given the unanimous and enthusiastic endorsement of the House.

CHANGING NAME OF PICKWICK DAM TO RANKIN DAM

Mr. PIERCE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. PIERCE. Mr. Speaker, I have introduced a bill to name the Pickwick Dam, on the Tennessee River, the Rankin Dam, after our distinguished colleague, Hon. JOHN E. RANKIN, of Mississippi.

Every Member of this body knows that if it had not been for the efforts of the gentleman from Mississippi [Mr. RANKIN] Pickwick Dam never would have been built. He was not only coauthor with Senator NORRIS of the bill which finally became the law creating the Tennessee Valley Authority, but he has been the most enthusiastic and energetic supporter of the T. V. A. program in the House from that day to this.

The bill creating the T. V. A. was introduced in the Senate by Senator NORRIS and in the House by Mr. RANKIN. The House Committee on Military Affairs reported another bill, which was not satisfactory to either Senator NORRIS or Mr. RANKIN; nor was it satisfactory to the President of the United States.

We remember the strenuous efforts of the gentleman from Mississippi to get the Norris-Rankin bill substituted for the House bill on a motion to recommit. He lost in the House, simply because the House did not understand the proposition. But when the measure reached the Senate, on motion of Senator NORRIS, all after the enacting clause was stricken out and the Norris-Rankin bill inserted. In that form the measure passed the Senate almost unanimously. When it returned to the House Mr. RANKIN had organized the friends of public power in favor of the measure as it passed the Senate. They blocked a unanimous-consent request to send the bill to conference. The Rules Committee was then asked for a rule to send the measure to conference.

Mr. RANKIN, as the leader of our group, which has come to be referred to as the "public power bloc" in the House, went before the Rules Committee and opposed sending the measure to conference without instructions. He pointed out that of the 10 men who would be selected as conferees, 9 of them had voted against the Norris-Rankin bill and in favor of the House bill, either on his motion to recommit in the House, or on a motion that was made to substitute the provisions of the House bill when the measure was before the Senate.

It was finally agreed that Mr. RANKIN was to have the right to offer a motion to instruct the conferees to accept the Norris-Rankin bill and that he should have an hour's time for debate, provided he would give half of the hour to the opposition, or secure additional time for them by unanimous consent.

He conferred with Senator NORRIS, who took the floor of the Senate that afternoon and denounced the House bill in unmeasured terms. Next morning Mr. RANKIN and Senator NORRIS got word to the White House that the measure was in danger. The President immediately called the chairman of the Military Affairs Committee and Senator NORRIS down and went over the proposition and approved the Norris-Rankin bill, just as it had come from the Senate, with a few minor changes.

Senator NORRIS called Mr. RANKIN over the telephone from the White House and told him what had been done. He said it had been agreed that the measure should go to conference with the understanding that the bill, as amended in the Senate, should be adopted—that is the Norris-Rankin bill—with a few minor changes, and told Mr. RANKIN that he was at liberty to announce this arrangement to the House and to the public. I was here at that time, and I remember that when the gentleman from Mississippi arose and made that statement to the House, it was greeted with a burst of applause, because the Members who believe in the principles of the T. V. A. had come to realize just what was involved.

The bill went to conference and came back just as it had passed the Senate except for a few minor changes, with all after the enacting clause stricken out and the Norris-Rankin bill substituted for the House bill, and the conference report was adopted by an overwhelming majority.

If it had not been for his untiring efforts, the bill would have gone to conference, an unfriendly conference, without instructions, and the chances are 10 to 1 that the provisions of the old House bill would have been accepted and that neither Pickwick Dam, nor any other dam, would have been constructed on the Tennessee River by the T. V. A.; nor would the people in that area have received the benefits of cheap electric energy which the T. V. A. now affords them, and the farmers never would have had a look-in.

When the bill was finally passed, it was at first understood that what was called the Cove Creek Dam should be renamed Norris Dam for Senator GEORGE W. NORRIS, the father of T. V. A. in the Senate, and that Pickwick Dam, when constructed, should be named the Rankin Dam in honor of our distinguished colleague from Mississippi, the father of the T. V. A. in the House, the coauthor with Senator NORRIS of the bill creating the T. V. A., and without whose assistance the measure would never have been passed in such a form as to make the construction of Pickwick Dam possible.

The Pickwick Dam is now about completed, and I submit that the Congress could do nothing more fitting or appropriate than to name it "Rankin Dam," in honor of the gentleman from Mississippi, who is more responsible for the creation of the T. V. A., and for its successful operation than any other man in the House.

For some years the T. V. A. has had many friends on this floor since its creation, but none as conspicuous, active, or effective as JOHN E. RANKIN, of Mississippi. His services for the T. V. A. have been outstanding. I think among the things he has done, the most important and convincing was the table that he published some time ago showing the cost of electricity in every State of the Union. In that table he compared the present cost with the cost of electricity at Tacoma, T. V. A., and Ontario, Canada. In this table he shows that my own State of Oregon was paying seven and one-half million dollars annually for electricity more than it would pay if it had T. V. A. rates, and that the Nation in its entirety is paying one thousand million dollars more annually for electricity than if it were paying the T. V. A. rates.

JOHN RANKIN has not only led the fight for the creation and operation of the T. V. A., but he has led the fight for cheap electricity for the American people in this body. He is our leader on the power question. Everyone who is interested in cheap electricity, from one end of this country to the other, is familiar with his name, and with the great work he has done in the interest of the ultimate consumers of electric light and power.

He has been bold and aggressive in this fight. He has not flinched or hesitated under the criticism or attacks of the power interests or their subsidized press. He has been abused, maligned, and misrepresented, but it has not feazed him. I know what it means to wage such a battle against such odds. During the time that I was Governor of the State of Oregon, and since I have been a Member of this House, I have had these same interests to deal with in every attempt I have made to secure for my people relief from the exorbitant overcharges for electric energy. I know that it has taken courage, ability, and determination for the gentleman from Mississippi to carry on this fight.

Thanks to the construction and operation of the great Bonneville project on the Columbia River, we are now about to succeed, and the people of the great Northwest are about to enter into that enjoyment of cheap electricity now enjoyed by the people in the T. V. A. area. In the construction of the Bonneville Dam, and its operation under the supervision of J. D. Ross, one of the greatest public servants in America, I am able to see my dream come true. The people along the Columbia River will ever be grateful to the gentleman from Mississippi for his loyalty and support in our efforts to develop the Columbia River and to get the power generated thereon distributed to the people at the yardstick rates.

He has been referred to as the "father of rural electrification." He has contributed to the cause in every nook and corner of the United States, and has been responsible for the electrification of more farm homes than any other man in public life, with the probable exception of Senator NORRIS. Every farmer throughout the country who is interested in rural electrification knows of the work he has done.

We all witnessed the brilliant fight he waged on this floor only a few days ago for an authorization of $100,000,000 for rural electrification, when he won a sweeping victory of almost 2 to 1.

He has stated repeatedly that he wanted to leave as his monument cheap electricity in every farm home in America, and I might add that, regardless of what we may do here, he will leave a monument of gratitude in the hearts of the farmers of this Nation, as well as all other consumers of electricity, for his untiring efforts in their behalf.

But we owe it to him to dedicate to him, as a token of the Nation's gratitude, this great monument which he has helped to build, and which never would have been built except for his persistent efforts.

We all remember that sometime ago the vote on the Gilbertsville Dam was lost in the House. Mr. RANKIN was ill at the time and was only able to come to the House and vote. When it came up a second time, he left a sickbed, took command of the fight, organized his forces, and saved the day for Gilbertsville Dam.

He was also coauthor with Senator NORRIS of the resolution providing for the electric-rate surveys of the various States by the Federal Power Commission. These surveys have had a wonderful effect in bringing about rate reductions, by informing the public on the subject of light and power rates.

Pickwick Dam, as I have said, is now about completed. It is located right at the corner of Mr. RANKIN'S district. It was at first thought that one end of it would be in Mississippi, in the district which he represents; but because of topographic features of the region, another location a short distance north of the Mississippi line was selected.

By all the rules of the game, Mr. RANKIN is entitled to the honor of having this dam named for him. I believe I speak the sentiment of the entire membership of this House when I say that. If put to a roll call, I doubt if there would be a dissenting vote.

So I say that we should pass this measure now, to honor the man who has done so much for the creation of the T. V. A., who has contributed so much to the relief of the electric consumers of the Nation from exorbitant overcharges, and who has dedicated his services here to the proposition of electrifying every farm home in America at the yardstick rates, or at rates the farmers can afford to pay.

Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD, and include therein the bill which I have introduced.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The bill referred to reads as follows:

A bill to change the name of Pickwick Landing Dam to Rankin Dam

Be it enacted, etc., That the dam now being constructed on the Tennessee River, and heretofore known as Pickwick Landing Dam, shall be known and designated on the public records as Rankin Dam in recognition and commemoration of the great services rendered in behalf of Tennessee Valley Authority by Congressman JOHN E. RANKIN, of Mississippi.

SEC. 2. All records, surveys, maps, and public documents of the United States in which such dam is mentioned or referred to under the name of Pickwick Landing Dam, or otherwise, shall be held to refer to such dam under and by the name of Rankin Dam.

That this act shall take effect and be in force from and after its passage.

WILL WE HAVE A BLOODY REVOLUTION IN THE UNITED STATES?

Mr. BURDICK. Mr. Speaker, I ask unanimous consent at this point in the RECORD to extend my own remarks.

The SPEAKER. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. BURDICK. Mr. Speaker, about a year ago Members of Congress were asked by the Review of Reviews to express their opinion as to the proper length of term a Member of Congress should be elected to, and of all the articles that subsequently appeared in that magazine, I believe that mine was the only one that advocated a term of 2 years as was fixed by the framers of the Constitution.

My reason for leaving the matter as the Constitution fixed it was that of all the agencies or Departments of Government, the House of Representatives is the one nearest to the people and the body that should—under the Constitution—control the purse strings of the Nation, without which no government can operate. No bill providing for the appropriation of money can originate in Congress unless it first comes before the House. For this reason, and because of the nearness of this body to the people, the House of Representatives always has been and is the most important governing body in the entire Government of the United States.

Our forefathers evidently recognized this and desired, in that day, because of the recent conflict with royalty, to keep this Government always close to the people. This Government now is close to the people just as the framers of the Constitution intended, providing the people were able to present unity of action at the polls. By not amending the Constitution to provide longer terms for Congressmen, the people retain the possibility of expressing their will in the Congress of the United States. To give up this control would be a disaster to popular government.

One reason, and really the only reason why I do not believe there will be any revolution in this country by force and violence is that the Government is so close to the people that the results of such a revolution can be obtained at the polls without bloodshed.

Every 2 years every last Member of Congress must submit his candidacy to the people, and in theory at least, the people have an opportunity every 2 years to take absolute control of the most important agency of Government and the one agency without which the Government could not continue a single day.

What has kept the people during the past 70 years from controlling their own Government? What power has existed in this country that has year after year thwarted the will of the people? My answer to these questions is that a select few in this country, through special privilege granted them by Congress, have amassed great wealth while the many have grown poor. Through the power granted by law these few have organized themselves into great corporations which do not intermingle with the people, but remain aloof and entrenched and actually dominate the situation locally and wherever they operate. Through bylaws they actually make all laws of their own operation and which in effect control the destinies of the people depending upon them for a livelihood.

These corporations, in order to acquire more special privilege, naturally concerned themselves with political parties and in time not only greatly influenced the policies of these parties, but in some instances actually dominated them. To make sure of their control of the policies of these parties, these corporations contributed campaign funds to both major parties to make sure that no matter how the election turned out, they would still be the winner. In this process, the rights, the interests of the voter, and the welfare of the entire country have been quite forgotten. The influence of these corporations on the public mind has been and still is far reaching. In the Federal Reserve System and the Treasury Department it is apparent today. Up to the present hour no one has ever been put in charge of either institution who is not in full sympathy with the private use of Government money. It makes no difference to this system whether the responsible officers in charge are Republicans or Democrats. We have had a Democratic administration for 6 years now, and I will assert that there are more Republicans holding responsible positions in the many Government financial institutions of the country than there are Democrats. But the essential point is that these men belong to the "fraternity," which is more powerful than either party. The men behind the party, the money-minded corporations, use their influence and maintain the private control of Government money, no matter what administration is in power.

This party system of Government has grown so powerful that only two parties are nationally recognized—namely, the Democratic Party and the Republican Party. Custom and habit, too, have contributed to this evil of government, until the people seem to regard the political situation as upset should any third, fourth, or fifth party be attempted that might possibly take dictation from the people instead of the corporations. Two of the most popular men in the United States during the last 50 years tried to change this two-party system and failed—Theodore Roosevelt and Robert M. La Follette. In my judgment, while I would personally support the move, I am forced to conclude that a third party movement at this time would also meet with failure.

Notwithstanding this apparently hopeless situation, it seems clear to me that the people can in November this year gain absolute control of this Government and smash for all time the control of it by corporations. It is the way this can be done that I now desire to discuss.

Leave the two-party system nationally as it is, and through education of the voters control those parties here in the Congress of the United States. Let the people first determine what they want, what principles of legislation they propose, and what measures they demand. When that is done, demand of the candidates for the House of Representatives endorsement of those principles or in a mass refuse to vote for them. Do not think for a moment that Members of Congress are not aware of this power of the people. They know it too well, and many of them hope that the people will follow along behind the party blindly as they always have. Having found candidates either in the Democratic or Republican Parties who are willing to openly commit themselves to the principles and measures demanded by the voters that Congressman will stay with the people who elected him. There would be mighty few exceptions. In districts where neither a Republican nor a Democrat would be willing to commit himself to these principles an independent candidate can be put up by the people themselves in most of the States—in at least enough of the States to control Congress.

In this manner the machinery of the two great parties can be utilized without any expense and the purposes of the people secured. Independent candidates can be elected in districts and even in State-wide areas as that has already been done in several States—Wisconsin, Minnesota, North Dakota, and California are leading examples.

Having elected a majority of the Congress the matter of control by the people would be comparatively easy. First of all the rules of the House should be overhauled and all gag proceedings voted out, to the end that any bill having the support of any considerable number of people could be decided upon its merits. Instead of having closed hearings, all hearings should always be open to the public. Instead of allowing a select few in each party to select the members of

committees, the committee members should be selected by the whole House by a vote of the whole House. This would prevent committee packing and would allow Members of proper qualifications to sit upon those committees according to their worth to the people. As the matter is conducted today it makes no difference how qualified a Member may be to act upon a committee he cannot secure the place unless the party managers in Congress see fit to let him sit on a committee. If a Member is independent and does not feel inclined to support this committee system, the independent is summarily dealt with and relegated to the outside.

While the Republican minority has nothing to say about the appointment of the Democrats who compose the majority of the committee, yet the Republican organization in the House, under custom long established by both parties, appoints usually one-third of the committee and there is no appeal from their decision in these appointments. Thus it will be seen that a defeated party, provided it is one of the two recognized parties, has one-third of its old power in defeat and two-thirds in victory so far as its power in the House of Representatives is concerned.

The two-party control, yes, absolute control of Congress is the greatest danger confronting the existence of this Government, and I know no other way to break this control than through the independent voting of the people at the polls.

What difference does it make which party label a candidate wears—Republican or Democrat—providing that candidate is willing to stand with the people in their demands for the cleaning out of the present rules of Congress and the enactment of legislation which they demand? The only reason in the world why this has not been done before is because the people at the polls have refused to do it.

No revolution, no matter how bloody, could give the people any more rights than they now possess. Through inaction, unconcern, and positive negligence they have followed the custom of the country, and have permitted the political parties, through their leaders, to control the affairs of Government. This continued depression has done one good thing—people have at least stopped long enough to think, and today they are thinking more than they have ever done before. If they will keep right on thinking and express that thought at the polls, they will be in absolute possession of this Government before January 1, next year.

I have attended now five sessions of this Congress, and outside of remedial legislation and temporary relief, we have accomplished very little in the way of ultimate happiness for the people of the United States. I need only refer to a few matters to make myself clear.

We have appropriated and spent $20,000,000,000, which when paid with interest will amount to fifty billion, to lift us out of the depression, and here we are more mired down than we were before we started this program.

The private financial fraternity of the Nation still unconstitutionally controls the Government's cash and credit to the extent that they pay nothing for this cash and credit and in turn loan it out to the people on interest, not only on the amount borrowed from the Government, but 5, 10, 15, and 20 times the amount so borrowed, until today the public and private debt, drawing interest, is close to $300,000,000,000. The average interest rate on this sum is 5 percent per annum; hence, annually the people of the United States must pay $15,000,000,000 in interest, or more than the combined income of agriculture and labor annually during the past 6 years. Approximately one-third of our national income for the same period has gone down the interest rat hole. In other words, the buying power of a dollar during this period has been depreciated 33⅓ cents on interest account alone. When we add the tax burden to this, which must be kept up to sustain the payment of interest, every dollar is discounted 51 cents. This should make it most plain that our buying power has been forced out of the country through this interest system, made possible through the private control of the Nation's cash and credit.

The other question to be asked is, How long can we continue this way? If all of the property in the United States were offered today for sale, it would not bring enough to pay the $300,000,000,000 debt, public and private. Is there anyone, therefore, who can think at all, who will defend this system? No such defense can be made to the people when they know that it was not necessary at all to permit this system to operate. Farmers and laborers may be dumb—they may be as dumb as Congress itself—but they know that if the Government's name is good on a bond sold to the banks, that the Government's name is just as good on a greenback that draws no interest at all. Yet we continue the practice of issuing bonds drawing interest, and most of them tax-free, and selling them to the private banking fraternity, who collect interest on the bonds and trade them back to the Government for greenbacks for which they pay nothing.

Do you not suppose the people want to stop this practice? Do you not suppose the people of the United States want House Joint Resolution 317 passed, that will assert the control of Congress over this money and credit of the people, and stop the private loot that threatens the destruction of every home, every family in this country?

Yet this cannot be done under our two-party system with its committee system packed with men who do not know what to do, or knowing, who do not care to act. This resolution remains in the committee of the House as dead as was Tutankhamen after his burial of 4,000 years in Egypt.

All our relief, except a scant and meager sandwich system, has gone to the financing of banks, insurance companies, trust companies, railroads, and other corporations; but no buying power has ever been put down at the bottom of our social structure. The buying power among the people is lower today than it was 6 years ago. Business is not only at a standstill but business places in every city of the United States are closing in amazing numbers. No business—no buying power.

Many millions of people have petitioned Congress to end the depression by distributing money at the bottom and keep it circulating. They have proposed the Townsend recovery plan, which will do this very thing by using the aged of the country as the agents of this money distribution at the bottom and keep it circulating. In my judgment, no better plan for the recovery of business, the betterment of the conditions of every man, woman, and child in the United States was ever proposed. The objections to the plan have been answered, or can be. The one stock objection that such a plan would increase the cost of living beyond any possible endurance has been answered. Many Members of Congress—at least 151 of them—know that no such result will follow—that the buying power supplied at the bottom would wake up the whole dead business structure and that the tax imposed on transactions could be absorbed in increased business which the business of the Nation does not now have. Everyone in this country wants to buy necessaries—14,000,000 jobless cannot buy; 61,000,000 in the United States who cannot borrow any more money want necessaries—wants crowd in on us from every side, but these wants cannot be satisfied because the people cannot buy. They have no money; their buying power is gone; they do not want to borrow if they could. They want to work; they want to live a normal life under the greatest Constitution in the world.

Can we pass any such law? Not on your life. That bill is peacefully slumbering in the committee under our two-party system. This system says this is not a good bill for the people—it is a bad bill, so bad that this committee will not trust the House of Representatives to vote on it. How do you like this party control of our Government?

The fact that Congress has not taken action to remedy this situation cannot be blamed to the President. Under the Constitution, he has his own duties to perform; we have ours. Since I have been here the President has never interfered with me in my official duties, nor has he, in my judgment, interfered with anyone else. It is idle to blame the President, the Supreme Court, or any other department of Government for the failure of Congress to act on

these important measures pending before the Congress. It is the fault of Congress; finally, it is the fault of the people in not electing Representatives who will perform their constitutional duties and assume full responsibility for their action.

My message to the voters of the United States is: Go to the polls in November and get control of your Government; elect your men to Congress and smash the rules of the House, and elect members to committees under a plan of merit and not years of mis-service. Let the people's voice be heard, and not the voice of the corporations. Start a political revolution in this country now and end it at the polls in November. If you do, you will win for the first time since the Civil War, and you will, for the first time in that period, be in control of your own Government.

The only government in the world today which holds out to the people the greatest right to self-government is the United States of America. Let us defend it. Let us drive its enemies out and let the people in; we can bring to the people life—the right to the necessities of life which millions today do not enjoy. Let us bring back liberty, which is fast disappearing through destitution and doles. Let us bring back happiness where despair and gloom reign. Let us remember the words of Edmund Burke when he said:

It is easier to make free men slaves than it is to make slaves free men.

COMMITTEE ON THE JUDICIARY

Mr. CELLER. Mr. Speaker, I now ask unanimous consent that the Committee on the Judiciary may have permission to sit today during sessions of the House to consider noncontroversial bills reported from its subcommittee No. 2.

Mr. MICHENER. Mr. Speaker, reserving the right to object, I could not hear the gentleman's request.

Mr. CELLER. I have asked unanimous consent that the Committee on the Judiciary of the House may sit during sessions of the House this afternoon to consider noncontroversial bills from its subcommittee No. 2.

Mr. TABER. Mr. Speaker, reserving the right to object, what does the gentleman call noncontroversial bills?

Mr. CELLER. Bills that are not subject to any objection on the part of any members of the committee.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

EXTENSION OF REMARKS

Mr. SCHNEIDER of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include in connection therewith a letter directed by me to the President and the Secretary of State.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MILITARY ESTABLISHMENT APPROPRIATION BILL—CIVIL FUNCTIONS, WAR DEPARTMENT APPROPRIATION BILL

Mr. SNYDER of Pennsylvania. Mr. Speaker, I ask unanimous consent that I may have until midnight tonight to file a conference report on the bill (H. R. 9995) making appropriations for the Military Establishment for the fiscal year ending June 30, 1939, and for other purposes, and the bill (H. R. 10291) making appropriations for the fiscal year ending June 30, 1939, for civil functions administered by the War Department, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SUBMARGINAL LANDS

Mr. RICH. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a letter from the Assistant Secretary of the Interior addressed to me, dated May 10, showing that the Federal Government at the present time is developing millions of acres of land in the West and Northwest, when the Federal Government, under the Agricultural Department, at the same time is trying to buy up about 40,000,000 acres of submarginal lands.

The SPEAKER. Is there objection?

There was no objection.

The matter referred to is as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, May 10, 1938.

Hon. ROBERT F. RICH,
House of Representatives.

MY DEAR MR. RICH: Your letter of April 20 has been received. You ask for an itemized statement showing the Federal reclamation projects which are now under construction or have been under construction during the past 4 years and which would put additional lands under irrigation. There is enclosed a statement which I trust will give you the desired information.

You asked also concerning proposed irrigation projects that will bring in new land. None of the projects authorized by Congress, construction of which has not yet been undertaken, are planned to bring in new lands. They only contemplate the development of supplemental water supplies for existing areas already under irrigation.

In making estimates of additional lands to be brought under irrigation, it has been assumed that funds will be made available to permit of an orderly program of construction. The estimated acreages will be increased or decreased in accordance with the rate at which funds are made available.

Sincerely yours,

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

MAY 4, 1938.

ADDITIONAL LAND TO BE BROUGHT UNDER IRRIGATION ON BUREAU OF RECLAMATION PROJECT

Gila project, Arizona: First unit of 150,000 acres under construction. Estimated rate of irrigation: 1943, 10,000 acres; 1944, 20,000; 1945, 30,000; 1946, 30,000; 1947, 30,000; 1948, 30,000.

Boulder Canyon project, all-American canal system, California: Construction of the main all-American canal (now nearing completion) and the Coachella branch canal (not yet undertaken) will provide water for the irrigation of 521,600 acres in the Imperial Valley and 152,930 acres in the Coachella Valley. The Imperial Valley lands are now irrigated from the Imperial Canal. About 16,000 acres in the Coachella Valley are now irrigated from wells, leaving about 137,000 acres of additional lands to come in. The canal to the Coachella Valley will be completed probably in 1942, but construction of a lateral distribution system has not been authorized. It will probably be several years after the completion of the canal before the entire Coachella Valley is under irrigation.

Boise project, Payette division, Idaho: Under construction. Total irrigable area, 47,800 acres. Estimated rate of additional lands coming in: 1939, 5,000; 1940, 15,000; 1941, 15,000; 1942, 12,800.

Pine River project, Colorado: Under construction. The total ultimate irrigable area is 69,000 acres, of which 17,000 acres are Indian lands. Additional lands to be irrigated total 35,000 acres, while a supplemental supply will be provided for 34,000 acres now under irrigation. While the storage reservoir will be completed in 1942, it will be several years before the 35,000 acres of new lands will be irrigated.

Buffalo Rapids project, Montana: The Glendive division of approximately 12,000 acres is now under construction, and construction work should be completed in 1942.

Sun River project, Montana: The Sun River Slope division, now under construction, comprises 17,033 acres, of which 4,556 acres are now irrigated. The remaining 12,477 acres will be brought in during 1938 and 1939.

Vale project, Oregon: This project of 30,000 acres was completed in 1937.

Klamath project, Oregon-California: The Tule Lake division, now under construction, comprises 33,000 acres, of which 21,500 are now irrigated. Five thousand one hundred acres will be brought in this year and 6,400 acres in 1939.

Owyhee project, Oregon-Idaho: Under construction, 115,383 acres. Of this area, 92,433 acres are now irrigable; 21,704 acres will be brought in during 1938 and 1,246 acres in 1939.

Grand Coulee Dam project, Washington: Dam and power plant are now under construction. The ultimate irrigable area of the project is 1,200,000 acres. The first unit of 150,000 acres can be brought under irrigation by 1943, and, under a reasonable plan of construction, 50,000 acres would be added yearly thereafter, the entire project to be completed in 1964.

Yakima project, Roza division, Washington: This division of 72,000 acres is now under construction. It is estimated that the rate of completion will be about as follows: 1942, 7,000 acres; 1943, 15,000; 1944, 15,000; 1945, 15,000; 1946, 15,000; 1947, 5,000.

Kendrick project, Wyoming: This project of 35,000 acres is now under construction. About 10,000 acres can be brought in by 1942, 10,000 in 1943, 10,000 in 1944, and 5,000 in 1945.

Riverton project, Wyoming: Of this 100,000-acre project, 32,000 acres are now irrigated and 68,000 acres of additional lands will be brought under irrigation at an estimated rate of about 5,000 acres yearly, with completion about 1952.

Shoshone project, Heart Mountain division, Wyoming: Under construction. Total irrigable area is 41,000 acres. The canal distribution system should be completed at the following rate: 1942, 10,000 acres; 1943, 10,000; 1944, 10,000; 1945, 11,000.

Additional lands to be brought under irrigation

Project	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948
Gila, Ariz.						10,000	20,000	30,000	30,000	30,000	30,000
All-American Canal, Calif. (main canal completed in 1939; branch canal completed in 1942).											
Boise-Payette, Idaho		5,000	15,000	15,000	12,800						
Pine River, Colo. (storage reservoir completed in 1942).											
Buffalo Rapids, Mont.					12,000						
Sun River-Sun River slope, Mont.		12,477									
Klamath-Tule Lake, Oreg.-Calif.	5,100	6,400									
Owyhee, Oreg.-Idaho	21,704	1,246									
Grand Coulee Dam, Wash.[1]						150,000	50,000	50,000	50,000	50,000	50,000
Yakima-Roza, Wash.					7,000	15,000	15,000	15,000	15,000	5,000	
Kendrick, Wyo.					10,000	10,000	10,000	5,000			
Riverton, Wyo.[2]			5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Shoshone-Heart Mountain, Wyo.					10,000	10,000	10,000	11,000			
Total	26,804	26,123	20,000	20,000	56,800	200,000	110,000	116,000	100,000	90,000	85,000

[1] 1949 to 1964, inclusive, 50,000 acres yearly.
[2] 1949, 5,000; 1950, 5,000; 1951, 5,000; 1952, 8,000.

STATUS OF LANDS

Project	Public land			State land unsold	Indian land	Private land		Total
	Entered	Open	Withdrawn			Railroad unsold	Other	
Gila, Ariz.	1,923	0	112,669	18,625	0	0	17,143	150,000
All-American Canal, Calif.	962	0	10,245	1,040	15,472	21,131	625,680	674,530
Boise-Payette, Idaho	0	0	7,320	3,980	0	0	36,500	47,800
Pine River, Colo.	0	0	0	600	17,000	400	51,000	69,000
Buffalo Rapids, Mont.	0	0	0	0	0	0	12,000	12,000
Sun River-Sun River slope, Mont.	321	0	12,477	1,250	0	0	2,985	17,033
Vale, Oreg.	3,862	0	0	0	0	0	26,138	30,000
Klamath-Tule Lake, Oreg.-Calif.	20,184	0	12,582	0	0	0	234	33,000
Owyhee, Oreg.-Idaho	7,939	1,204	6,560	4,904	0	134	94,642	115,383
Grand Coulee Dam, Wash.	0	0	60,000	60,000	0	60,000	1,020,000	1,200,000
Yakima-Roza, Wash.	120	0	1,591	2,477	0	13,562	54,250	72,000
Kendrick, Wyo.	1,400	0	1,000	1,900	0	0	30,700	35,000
Riverton, Wyo.	14,832	392	53,776	0	1,000	0	30,000	100,000
Shoshone, Wyo.	160	0	37,564	1,907	0	174	1,195	41,000

FEDERAL AID FOR ROADS

Mr. MOTT. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOTT. This morning, on what I supposed to be sufficient authority, I filed minority views to the conference report upon the bill H. R. 10140, the Federal-aid-to-roads bill. I have been informed since entering the Chamber that there is no authority for filing minority views to a conference report. My inquiry is whether that information is correct.

The SPEAKER. The Chair so ruled.

Mr. MOTT. Then, Mr. Speaker, I ask unanimous consent that I may extend my remarks at this point upon the bill H. R. 10140 and include therein the minority views I desired to file as a part of the conference report.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. WOLCOTT. Mr. Speaker, I reserve the right to object. May not the minority views be printed in the RECORD following the conference report itself? I ask the gentleman to so revise the request that his minority views be inserted at a point in the RECORD following the printing of the conference report.

Mr. MOTT. Mr. Speaker, I so revise my request to conform with the suggestion. I ask unanimous consent to extend my remarks in the RECORD by including therein my minority views on the conference report upon the bill H. R. 10140, to be printed immediately following the conference report in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix.

The SPEAKER. Is there objection?

There was no objection.

SUSPENSION OF RULES

Mr. O'CONNOR of New York, from the Committee on Rules, reported the following resolution, which was referred to the House Calendar and ordered printed:

House Resolution 509

Resolved, That during the remainder of the third session of the Seventy-fifth Congress it shall be in order for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII; it shall also be in order at any time during the third session of the Seventy-fifth Congress for the majority leader or the chairman of the Committee on Rules to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the third session of the Seventy-fifth Congress to consider reports from the Committee on Rules as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.

PURE FOODS AND DRUGS

Mr. O'CONNOR of New York, from the Committee on Rules, reported the following resolution, which was referred to the House Calendar and ordered printed:

House Resolution 512

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 5, an act to prevent the adulteration, misbranding, and false advertisement of food, drugs, devices, and cosmetics in interstate, foreign, and other commerce subject to the jurisdiction of the United States, for the purposes of safeguarding the public health, preventing deceit upon the purchasing public, and for other purposes, and all points of order against said act are hereby waived. That after general debate, which shall be confined to the act and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the act shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Interstate and Foreign Commerce, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original act. At the conclusion of such consideration the Committee shall rise and report the act to the House with such amendments as may have been adopted, and the previous question shall

be considered as ordered on the act and the amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. O'CONNOR of New York. Mr. Speaker, I call up House Resolution 509 for immediate consideration.

Mr. MAPES. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Michigan makes the point of order that there is no quorum present. Evidently there is no quorum present.

Mr. RAYBURN. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 93]

Anderson, Mo.	Eaton	Kirwan	Sacks
Andrews	Eckert	Kniffin	Sadowski
Arnold	Elliott	Lamneck	Shafer, Mich.
Atkinson	Englebright	Lanzetta	Shanley
Barden	Evans	Lesinski	Shannon
Barry	Faddis	Lewis, Md.	Smith, Conn.
Bates	Ferguson	Lord	Smith, Okla.
Buckley, N. Y.	Fish	Lucas	Snell
Bulwinkle	Fitzgerald	McClellan	Somers, N. Y.
Burch	Frey, Pa.	McGranery	Steagall
Byrne	Gasque	McLean	Sullivan
Cannon, Wis.	Gavagan	McMillan	Sweeney
Champion	Gifford	McReynolds	Taylor, Tenn.
Chapman	Gildea	McSweeney	Thom
Clark, N. C.	Gingery	Mason	Thurston
Claypool	Green	Mead	Tobey
Cochran	Greenwood	Mitchell, Ill	Treadway
Cole, Md.	Griswold	Mitchell, Tenn.	Vincent, Ky.
Crosby	Hancock, N. C.	Norton	Vinson, Ga.
Culkin	Harlan	O'Connell, Mont.	Wadsworth
Cullen	Harrington	O'Day	Wearin
Curley	Hartley	Palmisano	Weaver
Daly	Healey	Peterson, Fla.	Wene
Deen	Jarrett	Pettengill	Whelchel
DeMuth	Jenkins, Ohio	Pfeifer	White, Idaho
Dickstein	Johnson, Lyndon	Plumley	White, Ohio
Dirksen	Jones	Polk	Wolfenden
Disney	Keller	Quinn	Wood
Ditter	Kelly, N. Y.	Richards	Woodrum
Doughton	Kennedy, N. Y.	Rockefeller	
Douglas	Kerr	Rutherford	

The SPEAKER. On this roll call 304 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

H. R. 4199

Mr. GEARHART. Mr. Speaker, I introduced a resolution amending the rules of the House. I ask unanimous consent to extend my remarks at this point in the RECORD in explanation of the change.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. GEARHART. Mr. Speaker, on February 2, 1937, a bill was introduced in this House which, because of the importance of the legislative subject with which it assumed to deal, attracted widespread attention throughout the Nation. The bill was assigned the number of H. R. 4199, and, in accordance with its own provisions, the short title of "The General Welfare Act of 1937" was bestowed upon it.

The bill, now famous under both its short title and by its number, immediately attracted the support of millions of our people, American citizens residing in every section of this vast country. I believe it can be said without fear of successful contradiction that never in the history of the Congress has any other bill ever been accorded such widespread, enthusiastic, and sustained support by such great numbers of our people as has been given to the bill to which I am now referring.

SUPPORTED BY THOUSANDS

Letters numbering well into the hundreds of thousands have poured in upon us. Petitions containing the names of millions of our constituents have been presented to the Congress. Thousands upon thousands of loyal, patriotic American citizens, sincere and honest believers in the legislative principles contained in this ill-fated measure, have from time to time, and in many instances at great personal sacrifice, journeyed from the distant corners of our country to plead with their Representatives for a fair consideration of this bill, which, in their opinion, offers so much for the amelioration of the economic ills from which our country suffers.

In accordance with the rules of procedure of the House of Representatives—rules the flagrant abuse of which I intend to discuss today—the bill H. R. 4199 was, immediately following its introduction, referred by the Speaker to the House of Representatives Committee on Ways and Means, a standing committee composed of 18 Democrats and 7 Republicans, for its careful study and consideration. Notwithstanding the pleas and, I might say, Mr. Speaker, the tears of millions of our fellow citizens, many of them in dire financial distress, this so-called all-powerful legislative committee has refused to give even the slightest consideration to it, to even acknowledge its receipt. Today it gathers dust in one of the pigeonholes in the office of the clerk of that legislative agency.

In fairness to the Republican members of that powerful committee, I should, and I do, make acknowledgment of the fact that all seven of them, by voice and vote in the committee room and upon the floor of the House, have time and time again unanimously indicated their desire to proceed to conduct hearings on the General Welfare Act. Responsibility must be placed where responsibility belongs. If but six of the majority members of that committee would join with their Republican colleagues, hearings would be commenced immediately. But all 18 of them remain to this day deaf to the entreaties of those who ask no more than a right to be heard.

ONE HUNDRED AND FIFTY CONGRESSMEN DEMAND HEARINGS

Have these pleas for hearings come only from the country, from distant points in our land? No, no, Mr. Speaker; voices have been raised closer at hand. Over 150 Members of this House, the duly elected Representatives of 42,101,250 people, all living under the protection of the Stars and Stripes, have by joint petition and individual appeal literally begged the membership of this obdurate committee to proceed to the performance of the duty which the rules undoubtedly contemplate.

Mr. Speaker, this is indeed a strange situation. Over one-third of the membership of this body, representing over 40,000,000 of our people, ask a committee of their colleagues for a hearing upon a bill which has excited a most widespread support—and their request is ignored.

And it is only for a right to be heard that they have petitioned.

MILLIONS IN DIRE NEED

Tragic shadows, Mr. Speaker, are falling across the pages of human history; shadows of men and women in dire poverty, in misery, despair, and woe; of old people bearing upon bent shoulders the all but overwhelming burdens of a world that has turned its back upon them; of underprivileged children, babes whose parents must daily taste the bitterness that is born of the realization that they can no longer provide that which their little ones need and, if strong bodies are to be builded, must have.

As these threatening clouds of disaster lower, men and women whose energies have not yet been impaired, humanitarians who have not yet lost the faith nor despaired of the hope that this ever-increasing army of the condemned might yet be rescued from death's embrace, feverishly search for the path over which they may trudge a weary way through the shadows of despair into the comforting rays of God's beneficient sun.

A REMEDY IS PROPOSED

It is sincere, honest, intelligent, God-fearing people such as these that have come forward with a plan. It is they that have set the example of service to their fellow man, they who have made the study, inspired the writing, and caused the introduction of the measure which has since become known as the General Welfare Act of 1937. They have arisen amongst us to point a way. They come not empty-handed but laden with facts and figures, statistics and charts—the proofs, they say.

BUT THEY WILL NOT LISTEN

All they ask is a chance to be heard. But the majority members of the Ways and Means Committee have slammed

the door of their committee room in their face, have turned their backs upon them. They will not listen.

The proponents of the General Welfare Act assure us that the principles of their bill are sound and in respect to all of its parts each has somewhere been tried and none has been anywhere found wanting. They declare that its enactment will bring back prosperity to our distressed country; that it will create jobs and widen opportunities for all that would work. But the majority members of the Ways and Means Committee will not listen.

The proponents of this measure declare that it will simplify taxation and reduce the vast number of tax items with which we are now vexed. They tell us that it will eliminate all public and private charity, all public and private pensions, abolish the poorhouses, free the aged from worry. But the majority members of the Ways and Means Committee will not listen.

EIGHTEEN STUBBORN MEN

And how is it, Mr. Speaker, that as small a number of Representatives as 18, 18 out of a total membership of 435, 18 who happen for the moment to be the majority members of the Ways and Means Committee, can wield such autocratic power? How is it that 18 individuals can say what bills shall be considered and what bills shall not be considered by this Congress?

Why, may I ask, can this small band of recalicitrants outweigh the desire of upward of 150 of those who hold like commissions from the people who sent them here?

THE RULES ABUSED

The answer, of course, is obvious. It is because of the rules of procedure of the House of Representatives, the rules which were devised, theoretically at least, to facilitate the business of the Congress but which have been used by those who know how to manipulate them to prevent entirely the consideration of the bills which the administration leaders do not favor.

This situation, Mr. Speaker, is intolerable. The use of rules to defeat the will and desires of millions smacks of tyranny! The arbitrary refusal of the majority members of the Ways and Means Committee to grant hearings on H. R. 4199 constitutes an outrageous denial of the fundamental principles of democracy and of the right of free expression upon which our country is founded. If it is persisted in, confidence in our democratic institutions will be destroyed. Government will cease to be in the minds of the people their friend, but will become, in their estimation, their oppressor. And oppression is the threshold of revolution!

BOSSISM—DEMOCRACY IMPERILED

The rules which make possible this czaristic control of legislative procedure in the Congress by a handful of so-called administration leaders must be amended so as to end this tyrannical system of bossism which, if not restrained, will destroy free institutions in America. If the representative form of government is to be preserved in these United States, something must be done and done right now.

AN AMENDMENT IS PROPOSED

To meet this challenge to our liberties and our God-given right of free expression, I am today introducing a resolution (H. Res. 513) to amend the rules of procedure of the House of Representatives by adding a new rule, a rule, simple in its operation, which will, if adopted by the membership of this body, as I am confident it will be, make it possible for one-third of the membership of the House to compel any standing committee, whether it be the Ways and Means Committee or some other, to proceed to the holding of hearings upon any given bill by the simple act of affixing their signatures to an order in writing to that effect.

In the rule I propose are many provisions to prevent its mere formal observance. It guarantees to any proponent of any bill who can rally such support a full, fair, and complete hearing to which the public will be admitted and at which all interested persons will be heard. Then it would be up to the proponents of the measure to make their case, to convince the people and their legislative representatives that their proposition is sound and workable. That, Mr. Speaker, is all that the proponents of the General Welfare Act have been asking for. That is precisely what the majority members of the Ways and Means Committee have denied them.

Experience has taught us, Mr. Speaker, that it is only through committee hearings, committee reports, and recommendations—preceding committee action—can we ever expect the legislation in which we are interested to become law. In a very few instances recalcitrant committees have been discharged and the bill they refused to support has been brought on for consideration by the floor without the preceding committee hearings. But, Mr. Speaker, the records of the House of Representatives fail to disclose a single measure that ever became a law by that method. For all practical purposes, the procedure I propose is the only procedure that leads to the victory we hope to achieve. Let us get behind my proposal. In it lies our only hope.

WILL BENEFIT ALL

It is not only to those that favor the General Welfare Act that I address my appeal. True it is the outrageous strangulation process that has been applied to them that has aroused the resentment which we all feel. But that which has been done to the supporters of H. R. 4199 can be done to those that have centered their interest in other legislative measures. In resisting this assault upon our democratic processes, it would be well to recall that familiar quotation from the great Benjamin Franklin in which he admonishes us that if we do not "hang together" that we will most certainly "hang separately." If the believers in the doctrine of free expression will but hang together in this one instance, the autocratic power of any committee to suppress legislation will be forever banished from the Halls of the Congress. Let us pass this resolution which I have proposed.

Therefore I conclude, Mr. Speaker, that—

The arbitrary refusal of the majority members of the Ways and Means Committee to grant hearings on H. R. 4199 constitutes an outrageous denial of the fundamental principles of democracy and free expression upon which our country is founded.

The rules which make possible this czaristic control of legislative procedure by a handful of so-called administration leaders must be amended so as to end this tyrannical system of bossism which, if persisted in, will destroy free institutions in America.

I offer a remedy—House Resolution No. 513.

SUSPENSION OF RULES AND MOTIONS TO RECESS

The SPEAKER. The Clerk will report the resolution called up by the gentleman from New York.

The Clerk read as follows:

House resolution 509

Resolved, That during the remainder of the third session of the Seventy-fifth Congress it shall be in order for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII; it shall also be in order at any time during the third session of the Seventy-fifth Congress for the majority leader or the chairman of the Committee on Rules to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the third session of the Seventy-fifth Congress to consider reports from the Committee on Rules as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.

The SPEAKER. The question is, Shall the House now consider the resolution?

Mr. MARTIN of Massachusetts. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. MARTIN of Massachusetts. To ask the gentleman from New York a question.

The SPEAKER. The Chair will state that this motion is not debatable.

The question was taken; and two-thirds having voted in favor thereof, the motion was agreed to.

Mr. O'CONNOR of New York. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts [Mr. MARTIN].

Mr. Speaker, this is the usual resolution brought in toward the close of a session of Congress.

Its purpose is to expedite the business of the House. It provides that suspensions shall be in order on any day instead of on the first and third Mondays or during the last 6 days of the session. It has been impossible for some years to fix those last 6 days of a session, because the adjournment resolution usually comes in an hour or two before the actual adjournment.

The resolution also provides for recesses of the House rather than adjournment. The chief purpose this serves is to save, in the morning, the reading of a long Journal of the previous day's proceedings. Unfortunately, it also dispenses with the morning prayer.

The third purpose the resolution serves is to permit rules to be brought up on the same day they are reported rather than lying over for 1 day.

These provisions are all directed toward expediting the business of the Congress so we may reach that greatest of national holidays, the day Congress adjourns.

Mr. MARTIN of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR of New York. I gladly yield to the distinguished acting minority leader.

Mr. MARTIN of Massachusetts. This resolution is generally reported when we are about to adjourn. The House, I am sure, would like to have some assurance upon this point before we grant this additional power to the Speaker and to the leadership. Can the gentleman from New York tell us whether we are going to adjourn this week, or next week, a month from now, or 2 months from now?

I may add that there was a conference in the White House this morning concerning the so-called reorganization bill. This, of course, would have something to do with adjournment. If we are going to take up that bill, we may be here 3 months, and this resolution would not be at all necessary. Can the gentleman give us any information concerning these matters?

Mr. O'CONNOR of New York. That is what I might call almost a hypothetical question, there are so many component parts. All I know is that I was very busy at a meeting or "conference" of the Rules Committee trying to expedite the business of the House.

This resolution has been brought in, as I recall it, at least 10 days before adjournment. It portends adjournment, I might say.

Mr. MARTIN of Massachusetts. Does not the gentleman think we ought to have, accompanying this resolution, a statement of just what major legislation is to be considered before we adjourn?

Mr. O'CONNOR of New York. I think the gentleman knows that, if he reads the daily press.

Mr. MARTIN of Massachusetts. We do not believe all we read in the newspapers. Congress is very happy to be able to get its information through the newspapers, I am sure, but we thought that we might occasionally get something direct.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR of New York. I will yield to the distinguished gentleman for an inquiry.

Mr. MICHENER. Under this rule it will be possible for the majority leader to call up any bill he sees fit at any time, or for the chairman of the Committee on Rules to call his committee into session, to pass a rule, come downstairs, and call the bill up immediately. The result is that the passage of this resolution will require all the Members to be on the floor all the time the House is in session if they want to know what is going on.

In view of that fact, may I ask the gentleman if he will not be so kind as to notify the Members of the House just as soon as he learns when an important piece of legislation is coming up for consideration and, if possible, give us a day, an hour, or 20 minutes' notice?

Mr. O'CONNOR of New York. I shall be glad to give all the notice possible. Of course, the gentleman was once a distinguished member of the Rules Committee and reported a similar resolution toward the close of the session.

Mr. MICHENER. No, I think not. This rule is a precedent, according to the way it has been handled, under the New Deal. We lived up to the 6-day rule, with the possibility of one exception.

Mr. O'CONNOR of New York. No, indeed; the Republican Party took the same course we are taking today. I served with the gentleman many years on the Rules Committee, and the gentleman may trace back the history of this Congress for many years and I doubt if he can find a year in which an identical rule was not brought in.

Mr. MICHENER. The gentleman is a splendid chairman and carries out orders well.

Mr. O'CONNOR of New York. Of course, the gentleman intends to be facetious about my taking "orders."

Mr. BOILEAU. Will the gentleman yield?

Mr. O'CONNOR of New York. I yield to the distinguished gentleman from Wisconsin.

Mr. BOILEAU. The gentleman from Michigan began his statement by saying as he understood the rule the majority leader could call up any bill he wanted to at any time.

Mr. O'CONNOR of New York. Of course, that is not correct.

Mr. TABER. Will the gentleman yield?

Mr. O'CONNOR of New York. I yield to the gentleman from New York.

Mr. TABER. As I understand it, this rule contemplates a rather early adjournment of the Congress. Does the gentleman feel, in view of the stories that have been going around this morning with reference to the reorganization bill, that it is safe for us at this time to pass this resolution?

Mr. O'CONNOR of New York. Of course; sometimes I have no feeling whatsoever.

Mr. TABER. Does the gentleman think that perhaps this rule might be used to further such consideration?

Mr. O'CONNOR of New York. I cannot stretch my imagination that far.

Mr. TABER. I thank the gentleman.

Mr. MARTIN of Massachusetts. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I regret very much the gentleman from New York does not seem to have very much information as to the future legislative situation. I had hoped we might get some information, because we ought to have it before adopting this important resolution. I am going to pause to see if the majority leader might not want to take the House into his confidence as to what we might expect.

Mr. RAYBURN. I will after tomorrow.

Mr. MARTIN of Massachusetts. Why not now?

Mr. RAYBURN. I am not ready to answer right now as to the full program during the remainder of the session, I may say very candidly to the gentleman.

Mr. MARTIN of Massachusetts. I am sorry Members of the House cannot get information before we read it in the newspapers and before passing a resolution which is going to give tremendous power to the House administration; but, of course, you on that side have merely a 4-to-1 majority and can do what you wish. In all fairness, though, the House should have this information before a resolution of this sort is called up.

Mr. BOILEAU. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. In view of the statement made by the majority leader, and I can appreciate the position he is in, does not the gentleman believe it would be the part of wisdom for the gentleman from New York to withdraw consideration of this resolution until tomorrow?

Mr. MARTIN of Massachusetts. I think he should do it in all fairness to the House.

Mr. O'CONNOR of New York. This resolution has nothing to do with the program. The less the program the more this

resolution will expedite the business and the longer the program the more help this resolution will give to the House. I cannot see any connection whatever between the two.

Mr. MARTIN of Massachusetts. If the House is to be in session 6 weeks longer, this legislation should not be passed at the present time.

Mr. O'CONNOR of New York. What is the harm?

Mr. MARTIN of Massachusetts. What is the use of having any rules at any time, then?

Mr. BOILEAU. The gentleman asks, "What is the harm?" If that is true, why not adopt a rule of this kind at the beginning of any session?

Mr. MARTIN of Massachusetts. The gentleman has stated the situation correctly.

Mr. RICH. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield to the gentleman from Pennsylvania.

Mr. RICH. If we adopt this rule, then the unanimous consent of every individual Member of the House covering any legislation which that individual Member might desire could be brought up on the floor.

Mr. O'CONNOR of New York. This rule has nothing to do with the unanimous-consent request of any Member for any legislation. It does not pertain to that at all.

Mr. RICH. It certainly is going to give the Speaker great power. He can permit anything to come on the floor of the House.

Mr. O'CONNOR of New York. The Speaker always has the power to recognize Members for unanimous-consent requests. This rule permits the Speaker to recognize Members for suspensions, which takes a two-thirds vote.

Mr. MARTIN of Massachusetts. You can more easily get a majority vote than a two-thirds vote.

Mr. O'CONNOR of New York. Then the gentleman should not worry.

Mr. MARTIN of Massachusetts. It steamrollers the minority a little more.

Mr. McCORMACK. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. The gentleman from New York made the observation that the Speaker always has the power to recognize Members for unanimous-consent requests. The Speaker also has the power to refuse to recognize such requests.

Mr. MARTIN of Massachusetts. The Speaker has not the right to recognize Members to call up bills under suspension of the rules every day. There are only certain days on which he may do that?

Mr. McCORMACK. I am not addressing myself to that. I am referring to the unanimous-consent request proposition raised by the gentleman from Pennsylvania [Mr. RICH].

Mr. MICHENER. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield to the gentleman from Michigan.

Mr. MICHENER. As I see it, one of the really serious objections to a rule of this kind is that the rule provides in effect that the majority, knowing what measures it is going to bring up, and having the authority to bring them up without any notice, may have its Members on the floor at a given time and bring up anything and pass it, even without a roll call, and the Members of the minority may not know the measure is coming up unless they stay on the floor constantly.

Mr. O'CONNOR of New York. Of course, that statement is without foundation, because nothing could be passed here by a mere majority without notice. Under suspensions it could. However, before a rule can be brought up it requires a majority and, of course, it would have to be brought out from the Committee on Rules, on which the minority is represented.

Mr. MICHENER. Yes; but the gentleman could go to the committee room of the Committee on Rules immediately after this rule is passed and hold a committee meeting and report out a rule and the chairman could come back here in 20 minutes with a rule and take up the proposed legislation. Unless the gentleman sees fit to notify the minority before he reports what is going to happen, it is impossible for the minority to know what is coming up.

Mr. O'CONNOR of New York. We hear that complaint every year.

Mr. MICHENER. It is true, is it not?

Mr. O'CONNOR of New York. It is not true, because the gentleman from Massachusetts [Mr. MARTIN], who is the ranking minority member on the Committee on Rules, will say we always advise the minority when we are bringing up any rule. We have never failed to do that while we have been in the majority.

Mr. MICHENER. You advise the minority members when you invite them to the committee meeting the purpose of which is to report out a rule, and then you call up the bill at once.

Mr. O'CONNOR of New York. We hear this squabble every year, and it is a tempest in a teapot. We are trying to expedite the business of this House and let the gentleman go back to Michigan and take care of his fences.

Mr. MARTIN of Massachusetts. Does not the gentleman believe that as a usual thing more reasons are given than the gentleman has given today?

Mr. O'CONNOR of New York. I believe reasons have been given today much more fully than heretofore.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and on a division (demanded by Mr. MARTIN of Massachusetts) there were—ayes 139, noes 27.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

THE WAGE AND HOUR BILL

Mr. RAMSPECK. Mr. Speaker, I call up from the Speaker's table the bill (S. 2475) to provide for the establishment of fair labor standards and employments in and effecting interstate commerce, and for other purposes, with a House amendment, and move that the House insist on its amendment to the Senate bill and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. The gentleman from Georgia moves that the House insist upon its amendment to the Senate bill and agree to the conference asked by the Senate. The question is on the motion.

The motion was agreed to.

The Chair appointed the following conferees: Mrs. NORTON, Mr. RAMSPECK, Mr. GRISWOLD, Mr. KELLER, Mr. DUNN, Mr. WELCH, and Mr. HARTLEY.

EXTENSION OF REMARKS

Mr. MERRITT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a brief address by Mary Dewson, member of the Social Security Board, on 50 Years Progress Toward Social Security.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, and include therein a very short address by Dr. Norman Burritt, of the New Jersey State Medical Society, on the food and drug legislation.

Mr. RICH. Reserving the right to object, Mr. Speaker, I notice Members of the House are now asking permission to insert in the RECORD addresses of everybody back in their own localities. If this is what you want to use the RECORD for, then go ahead, because you in the majority have complete charge. However, it seems to me that somebody ought to protect the record of the proceedings in the House and the Senate from such insertions. The CONGRESSIONAL RECORD is supposed to be a record of what transpires in the Congress, but instead of that we are having placed in the RECORD speeches from people back in the Members' home towns. It is a fine thing to do, but it is contrary to the rules of the House of Representatives and the Members should not be permitted to do it.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE FOOD AND DRUG BILL

Mr. O'CONNOR of New York. Mr. Speaker, I call up House Resolution 512.

The Clerk read the resolution, as follows:

House Resolution 512

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 5, "An act to prevent the adulteration, misbranding, and false advertisement of food, drugs, devices, and cosmetics in interstate, foreign, and other commerce subject to the jurisdiction of the United States, for the purposes of safeguarding the public health, preventing deceit upon the purchasing public, and for other purposes," and all points of order against said act are hereby waived. That after general debate, which shall be confined to the act and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the act shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on Interstate and Foreign Commerce, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original act. At the conclusion of such consideration the Committee shall rise and report the act to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the act and the amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. O'CONNOR of New York. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. Speaker, this is a rule for the consideration of the Food and Drugs Act, a matter which has been before us for many years. It is an open rule permitting amendments, and I reserve the balance of my time.

Mr. MAPES. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. LUCE].

Mr. LUCE. Mr. Speaker, when the gentleman from New York presented his previous motion, which is customary, he gave the gentleman from Massachusetts 30 minutes, and then, I am sure, through inadvertence, proceeded to allow the matter to go to a vote without opportunity to say some things upon that subject which are in my mind. I am sure he did not intend so to do.

Mr. O'CONNOR of New York. Mr. Speaker, will the gentleman yield?

Mr. LUCE. I yield.

Mr. O'CONNOR of New York. I assumed, by looking at the gentleman from Massachusetts, that he had finished. He had originally told me that he only wanted a few minutes. I looked toward the gentleman and then I moved the previous question.

Mr. MARTIN of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. LUCE. I yield.

Mr. MARTIN of Massachusetts. I will say that what the gentleman from New York states is correct.

Mr. O'CONNOR of New York. I did not intend to foreclose the gentleman at all.

Mr. LUCE. The incident I speak of may justify a few minutes somewhat out of order, in relation to the subject then in question, for I wish to call the attention of the gentleman from New York and of the House and, if possible, of the country, that there are at present on the calendars 182 measures on the Union Calendar, 18 on the House Calendar, and 58 on the Private Calendar, a total of 258 measures.

These have all been considered by committees of the House. The committees have reached the opinion that they were important enough to be laid before the House. The committees have recommended the passage of these measures. These committees have spent many hours, and in some cases many days, in the consideration of these measures. Mind you, every one of the 258 has been recommended for the consideration of the House.

It is evident that if adjournment is reached at the time which the motion evidently had in mind, the great majority of these measures will fall. Perhaps some of them should fall, but, at any rate, I hold that any measure reported to this House ought to have its consideration.

These measures affect thousands, in some cases millions of our people. Some of them affect the whole country, others affect only individual interests, but they are all believed by the committees to deserve consideration.

I am saying this that it may be spread on the RECORD that in spite of all this, the House contemplates going home without completing action upon a not inconsiderable part of the measures that have been put before it. The country should know that from personal reasons, perhaps, or political reasons the great majority controlling this Congress will have turned its back upon these measures and the wishes of the interested persons.

Sir, I do not know how to compare this with previous Congresses. It is possible that my own party may have committed the same faults when it was in power, but if so, that is no reason why we should now go back to our homes and have to admit we left dozens and scores of bills without action.

In my own State, Massachusetts, the general court, as we call our legislature, has not yet abandoned the time-honored belief that every petitioner should have an answer. The rules require that committees shall report on all matters referred to them. Every report is put on the calendar and must be acted upon. The legislature does not adjourn until the calendars are clear. In other words, bills may not be pigeonholed. With the multitude of measures deluged upon Congress, that would not be practicable here in full, but there is no reason why we should not require that every committee report have consideration.

In the end it would save more time than it would take, for nearly every bill not now acted upon will be introduced again, may appear for session after session, requiring repetition of committee hearings over and over till at last conclusion is reached. The waste of time and effort in failing to finish work that has once reached the floor of either House is lamentable. Sometimes the delays of justice are scandalous. Assuming that at least some of the legislation approved by committees would be wise, the country suffers.

Mr. O'CONNOR of New York. Mr. Speaker, if the statement of the distinguished gentleman from Massachusetts is the most severe indictment that he can lay against the Democratic Party, they would not even be compelled to plead to a misdemeanor.

The gentleman from Massachusetts [Mr. LUCE] says that some 250 bills remain on the calendars. Of course, there is some duplication between the Consent Calendar and the Union Calendar and the House Calendar. Why, Mr. Speaker, I thought at first there were 3,000 until I checked it. Of course, we usually dispose of all Private Calendar bills and all bills on the Consent Calendar before we adjourn, and I anticipate that will be done again in this session. Let us look at the exact figures up to last Friday, May 28.

Eight hundred and nine bills were placed on the Consent Calendar. We have considered 722, leaving only 87 now pending.

Eleven hundred and three bills were placed on the Private Calendar. We have considered 945, leaving only 158 to be yet considered.

Two hundred and sixty-six bills and resolutions were placed on the House Calendar. We have considered 247, leaving only 19 to be taken care of.

Nine hundred and forty bills were placed on the Union Calendar. We have considered 761, leaving only 179 not yet acted upon.

Sometime ago I put in the RECORD the statistics on the legislative business of the Seventy-fourth Congress. As I recall those figures, there were about 15,000 bills introduced in the Seventy-fourth Congress. There were about 4,000 bills reported by committees. Of the 4,000 bills so reported

about 2,000 became law, equally divided between private bills and public bills. This is a fair average of the process of legislation over a great many years, whether the party of the gentleman from Massachusetts was in power or the Democratic Party.

Let us now look at the figures as to the Seventy-fifth Congress and its three sessions up to last Friday, May 27.

Bills introduced:	
House	10,781
Senate	4,115
Total bills	14,896
Joint resolutions introduced (often in effect bills):	
House	702
Senate	302
Concurrent resolutions introduced:	
House	47
Senate	37
Resolutions introduced:	
House	506
Senate	284
Making a grand total of legislative proposals	16,774

Now let us see what action has been had on these proposals.

Reports from House committees number	2,518
Reports from Senate committees	1,921
Total reports	4,439

Of these proposals so reported the following have already become law, with undoubtedly hundreds more to follow:

Public laws	553
Private laws	536
Public resolutions	99
Private resolutions	4
Total laws	1,192

So we have made a remarkable record, probably unequaled, if we adjourned today, leaving only about 300 bills on the calendars undisposed of.

If the distinguished gentlemen desires to "go to the country" with that indictment of us, the facts will not support his pleadings.

Mr. FLETCHER. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR of New York. Yes.

Mr. FLETCHER. Does the gentleman mean to say that we will leave only 300 out of 15,000?

Mr. O'CONNOR of New York. Yes; out of 16,774. We are talking about this entire Seventy-fifth Congress of three sessions.

Mr. FLETCHER. Three hundred out of 4,000.

Mr. O'CONNOR of New York. But of over 4,000 reported.

Mr. LUCE. Mr. Speaker, will the gentleman yield?

Mr. O'CONNOR of New York. Yes.

Mr. LUCE. Did the gentleman sufficiently emphasize the fact that his figures represent largely bills introduced, and refer only incidentally to the bills reported, while the gentleman from Ohio [Mr. FLETCHER] did not observe that fact?

Mr. O'CONNOR of New York. I have stated that in the Seventy-fifth Congress there were 4,439 reported and that with 346 left on the calendar there will be less than 8 percent of the bills left which have been reported by our committees. That is a record of which Congress may well be proud.

Mr. MAPES. Mr. Speaker, I yield myself 20 minutes. I am opposed to the committee substitute as reported and am opposed to the rule. Unless the bill is materially modified I shall vote against it. The particular provision in the bill to which I am opposed is the so-called court-review section, paragraph (f) of section 701. That does not mean that I am opposed to any court review. Not at all. Everyone concedes the right of an aggrieved person to a court review, or his day in court, but not such a court review as the one provided for in the committee substitute. I particularly emphasize that fact. A discussion of the merits of the legislation will more properly come up under the general debate on the bill, but in this debate on the rule I want to call the attention of the House to some of the opposition to the legislation as reported by the committee.

In the first place, the Secretary of Agriculture and the Food and Drug Administration in the Department of Agriculture are opposed to it, as shown by the letter of the Secretary of Agriculture printed in the minority report. I shall not read the letter in full at this time, I shall read only a few sentences of it. It was written March 29, 1938. The letter printed in the minority report is addressed to me. Let me explain how that happened. The gentleman from Kentucky [Mr. CHAPMAN] and I joined in a letter to the Secretary of Agriculture asking his views on the court-review section, as it then appeared in a confidential committee print of the bill. The Secretary answered by sending one letter addressed to the gentleman from Kentucky and another one to me. The letters were identical, except that one was addressed to Mr. CHAPMAN and the other to me.

In that letter the Secretary, among other things, said:

> I am of the opinion that if section 701 (f) remains in the bill its effect will be to hamstring its administration so as to amount to a practical nullification of the substantial provisions of the bill.

After reviewing the section somewhat at length he makes these further statements:

> Even though a number of district courts might uphold an order, demanded alike by the public and by the overwhelming majority of the industry regulated, to terminate abusive practices, a single district court could enjoin permanently the enforcement of the regulation.
>
> Frankly, I regard this provision as unfair to the Department, to the public, and to the industries regulated, the majority of which unquestionably would support regulations based on substantial evidence which the Secretary of Agriculture would promulgate.

Again the Secretary says:

> It is the Department's considered judgment that it would be better to continue the old law in effect than to enact S. 5 with this provision. If there is to be exploration into fields of administrative law, may I urge that it not be in the field of vitally important public-health legislation.

Mr. ROBERTSON. Mr. Speaker, will the gentleman yield?

Mr. MAPES. Yes.

Mr. ROBERTSON. Will my colleague advise the House whether or not he supported, when the bill came over from the Senate, the court-review section that the Senate had written into this bill, or did he oppose any provision for a court review?

Mr. MAPES. I do not remember that that was a controversial issue until this came up. If the gentleman from Virginia has any information about that, I would be pleased to have him disclose it. Personally, I do not recall that the question came up in any controversial way.

Mr. ROBERTSON. The best lawyers the International Apple Association and the other producers of fruits and vegetables can get render it as their deliberate opinion that it is highly essential for the protection of those who must use spray in the production of fruit and vegetables to have the privilege of going into court to test the reasonableness of the departmental regulations.

I understand that my colleague admits that they should have the right to go into court to test the question of reasonableness. Let us take the case of a Pacific coast producer in the State of Washington. His apples have been taken up under a regulation that permits and allows tolerance, say, of 0.01, unsupported by any medical testimony, any scientific fact or data to establish the fact that to exceed such a tolerance would be injurious to human health. My friend tells the House, as I understand, that that apple producer shall not have the right to test that regulation in his own State but must come to the District of Columbia in order to litigate that question although this bill reserves the right to the Department of Agriculture to seize the apples and litigate them wherever it sees fit throughout the United States. Why should we provide just one court for the citizen of the United States to bring his suit and yet allow the Government to bring its case anywhere it pleases?

Mr. MAPES. The gentleman from Virginia, frankly, has put his finger upon the real issue involved in this court-review section. It is a question for the House to decide whether it is going to follow the recommendation of the

apple-growers' association in writing the section or the recommendation of the Food and Drug Administration. The gentleman from Virginia very accurately has put his finger upon the point in controversy.

The gentleman from Virginia, of course, would not claim that any administrative authority would pass regulations or issue orders without any evidence, as he has indicated might be done. If any administrative officer did that, the court would protect those affected, as it did recently in the stockyards case.

I had not intended to go into the merits of the section in this debate on the rule, but as long as the gentleman from Virginia has raised the question, the House may as well understand just what is involved.

Mr. SIROVICH. Mr. Speaker, will the gentleman yield?

Mr. MAPES. I yield.

Mr. SIROVICH. I think the gentleman is perfectly right in the contention he is bringing before the House, because many years ago when we considered the food and drug bill we learned that in the States of Oregon and Washington the apples had been sprayed with a lead-arsenic preparation that was more than the tolerance allowed. The authorities in Massachusetts arrested six or eight trainloads of apples that had more lead arsenic than the law permitted. These apples were thrown into the harbor at Boston. England and France have not permitted many of our apples to go into these countries because the apples contained more lead and arsenic than the tolerance law allowed. Something should be done to protect the consuming public against having their gastro-intestinal tracts disturbed by these lead-arsenic preparations.

Mr. MAPES. Mr. Speaker, I thank the gentleman from Virginia and the gentleman from New York for getting the issue so squarely before the House, much better than I could have done without their assistance.

Mr. ROBERTSON. Will the gentleman yield for a very brief question?

Mr. MAPES. I yield to the gentleman.

Mr. ROBERTSON. Has the gentleman ever heard of a single case in the history of the United States, either in medical science or any other science, where anybody has been poisoned through eating an apple with undue spray residue on it? The gentleman cannot cite one case.

Mr. MAPES. Mr. Speaker, the letter of the Secretary of Agriculture, which is printed in the minority report, was written a few days before the committee report was filed, and applied to a draft of this section which appeared in a confidential committee draft at that time. It varies a little from the one actually reported. The committee amended the draft of the section as submitted to the Secretary by striking out, page 82, line 19, after the word "shall", the words "if in his judgment sufficient reason appears for so doing," and by inserting, page 84, line 8, after the word "shall", certain other words. Those who signed the minority report believe that the first amendment weakens the enforcement provision of the section and the second one requires nothing more than a court would ordinarily require without it.

Mr. Speaker, for all practical purposes the section remains substantially the same as the one submitted to the Secretary.

In the second place the committee substitute is opposed by practically all the women's organizations in the country that I know of. The substitute was reported to the House on April 14. A few days afterward the Members of the House received a letter signed by the representatives of 15 organizations of women representing the consuming public opposing the committee substitute. That letter dated April 22, 1938, reads as follows:

APRIL 22, 1938.

To the Members of the House of Representatives:

Re: Food and drug bill S. 5, as reported to the House April 14.

The undersigned organizations have worked consistently for the past 5 years for an adequate revision of the present Food and Drug Act to insure protection of the public from dangerous and fraudulent products. No bill which has been before the Congress in the past 2 years has entirely met the standards for such legislation which we as consumers consider reasonable; but as long as proposed legislation offered measurable improvement over the present act, the undersigned organizations have accepted modifications.

S. 5 as now reported to the House contains a provision, section 701 (f), which is not only a radical departure from existing administrative law, but would prevent quick and effective action against dangerous and fraudulent products.

We are convinced that this proposal for judicial review of regulations more than offsets the improvements over the present law contained in the bill. Unless this section providing for judicial review is struck out, the undersigned organizations must oppose the enactment of the measure.

Caroline Ware, American Association of University Women; Marie Mount, American Dietetic Association; Katharine M. Ansley, American Home Economics Association; Janet Fish, American Nurses Association; Margaret C. Maule, Girls Friendly Society of the United States of America; Sina H. Stanton, Council of Women for Home Missions; Louise Taylor Jones, Medical Women's National Association; Esther Cady Danley, National Board of the Y. W. C. A. of the U. S. A.; Mary T. Bannerman, National Congress of Parents and Teachers; Mrs. Arthur G. Broade, National Council of Jewish Women; Louise G. Baldwin, National League of Women Voters; Mary N. Winslow, National Women's Trade Union League; Julia M. Green, Women's Homeopathic Medical Fraternity; Mathilde C. Hader, National Consumers League.

And, Mr. Speaker, I just received this morning from the department of economics, Michigan State College, at Lansing, a letter signed by the agricultural economist, containing these two sentences:

The bill as reported by the committee is a farce, and enforcement of it would be impossible. Many of these groups of women who are studying consumers' problems in Michigan have been deeply concerned about this bill.

In general debate I expect to go further into the merits of this particular section, but I wanted to call attention in the debate on the rule to this opposition to the legislation.

[Here the gavel fell.]

Mr. O'CONNOR of New York. Mr. Speaker, I move the previous question on the adoption of the resolution.

The previous question was ordered.

The resolution was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 5, with Mr. DRIVER in the chair.

The Clerk read the title of the bill.

The first reading of the bill was dispensed with.

Mr. LEA. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, the bill before us is what might be termed an evolution of the Wiley Act of 1906, which bears the name of Dr. Wiley because of his great service in behalf of public health in the United States. That was 32 years ago. Since then there have been very few amendments to the Food and Drug Act. There has been a revolution in the United States so far as the preparation of food is concerned. In 1900 the home was the laboratory and the place of preparation of food for the American people. That was true almost entirely. Today a large proportion of all the foods consumed by our people is prepared in the factories of the United States.

In this same period of 32 years we have witnessed the development of the germ theory of disease. While it was known in 1906, the full ramifications and importance of the germ theory as a source of disease has largely developed since that time.

In addition to that, we have had 32 years' experience in the enforcement of the present food and drug law. Based upon this experience and these changed conditions, the country has need for this legislation.

The object of the pending bill is to extend the scope of food and drug legislation and to give more effective control to the law as we have it today as well as the new law. Food and drug legislation has revolved around two primary considerations. The first is adulteration and the other is misbranding. The object of food and drug legislation has these things in view: prevent adulteration of foods in order to protect health, and prevent the deception of the public; misbranding in particular, to avoid deception in the purchase of foods, drugs, and articles that come within this bill.

Mr. Chairman, this bill goes further than the existing law in a number of particulars, some of which, in a general way, I will attempt to point out. This bill proposes 15 or more substantial improvements in the existing law.

First, I call your attention to the structure of this bill. It consists of over 50 pages, and it may be confusing to you as you look it over. The present law is confined to food and drugs. This bill takes in therapeutic devices and also cosmetics. In those particulars, as well as in others, it is a material extension of the present food and drug law.

The bill treats these subjects under three separate heads in as many divisions. Having in mind that we are dealing primarily with adulteration and misbranding under each head, we have three separate divisions of the bill, one dealing with food, another with drugs and therapeutic devices, and the third with cosmetics. Each of these three divisions deals with the same subject in three parallel provisions. On account of the dissimilarity of the three subjects covered by the bill each one is treated in a separate part of the bill. However, the provisions in reference to adulteration and misbranding run practically parallel in each of the three subdivisions of the bill.

Naturally the question arises as to the remedies that are to be applied to protect the public against adulteration and misbranding of their food and drugs. The remedies provided in this bill include a denial to these adulterated and misbranded articles covered by the bill of the right to move in interstate commerce.

There are penal provisions which make it a crime to introduce or to transmit these articles in interstate commerce in violation of the law. There is provision for the seizure of articles which may be injurious to health or the sale of which under the conditions would be a gross imposition upon the public. There is also provision for giving warning and information by labels, where necessary, to the prospective consumer of foods and drugs, cosmetics, and therapeutic devices.

In addition, in this bill the committee proposes a new arm of enforcement by providing that injunctions may be used to assist in the enforcement of this act. This is a very important addition to the present law that should contribute to effective enforcement and reduction of litigation.

Then, a final feature of the bill, so far as its remedial considerations are concerned, is that the Secretary of Agriculture, who is now the head of the Food and Drug Administration, is clothed with very broad authority for the purpose of enforcement, to make regulations to carry out the law that is proposed to be enacted.

I should like to call attention briefly to some features of the bill that increase the scope of the present food and drug law. These features include control over adulteration and misbranding of cosmetics and therapeutic devices. There is a provision that drugs intended for diagnosing illness or for remedying underweight or overweight or for otherwise affecting bodily structure or function are subject to regulation. New drugs are required to be adequately tested for safety before they are placed on the market.

Foods that are dangerous because of naturally contained poisons rather than added poisons are brought under regulation. The addition of poison to foods is prohibited except where such addition is necessary or cannot be avoided; and in such cases tolerances are provided limiting the amount of added poison to the extent necessary to safeguard the public health.

At this point I call attention to the question discussed a while ago as spray residue on fruit. This bill provides that the Secretary of Agriculture shall have authority after proper hearing to prescribe the extent of spray residue that shall be permissible. Then the regulation is enforceable. There is nothing in this bill that fails to protect the public health against spray residue. In the present law there is no such authority in the Secretary of Agriculture. The only method of prosecuting in connection with that condition at the present time is to treat spray residue as an adulteration.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield to the gentleman from New York.

Mr. SIROVICH. Is there anything in this measure which would compel the Government of the United States to insist upon the washing off of the toxic residue that may be found upon fruits and vegetables?

Mr. LEA. The only way of handling that situation at the present time is for the Secretary to say, in effect, that if he finds more than a certain amount of spray residue, he will prosecute criminally for adulteration. There is no authority by which he can legally adopt regulations. He must resort to the criminal procedure for adulteration. If enacted, this bill would give him the right after proper hearings to adopt regulations prescribing limits. Then a court review would be permitted, and if the interested parties claimed the regulation was invalid, they would have the right to go into court and have that question considered.

Mr. SIROVICH. In other words, the court would pass on the toxicity of the residue?

Mr. LEA. The court would pass on the validity of the regulation. If the regulation was found valid, that would settle the question and the final decision would become the settled law of the case.

Mr. SIROVICH. That means the court would have to call upon all kinds of medical authority to counteract what the Secretary of Agriculture had already done.

Mr. LEA. No; the finding is made based on the record made at the hearing before the Secretary, and is confined to that record, unless for good cause shown additional evidence is received. If there is substantial evidence to justify the Secretary's finding the case is closed.

Where the other provisions of the law are not effective to control danger to health arising from bacterial contamination of food, temporary license restrictions can be imposed until the difficulty is corrected.

This is largely aimed at contagious diseases that sweep over the country at times, where factories are in the affected territory. In order to reduce the menace to the consuming public over the country, the Secretary can require permits and inspect the suspected factory in order to be sure that its products do not carry contagion to the people of the country.

Definitions and standards of identity are provided under which the integrity of food products can be effectively maintained.

Informative labeling of foods as to quality and composition is required for the information and guidance of consumers. Emphasis is placed on the informative labeling of special dietary foods, such as that for infants and invalids.

The provision under which proceedings could be brought against falsely labeled patent medicines only upon evidence to prove that the manufacturer knew his labels were false is eliminated.

In other words, at the present time it is necessary to prove criminal intent before you can give the consumers the benefit of this protection. Under this bill we look to consumer protection as the primary consideration and make secondary the question of intent with which the article was given out to the public.

Habit-forming drugs must be labeled with warnings that they are habit forming.

Potent drugs liable to be misused must bear labels warning against probable misuse.

Special safeguards are set up for packaging and labeling deteriorating drugs.

Authority is provided for inspection of factories making interstate shipments, without which the law could not be effectively enforced.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. SIROVICH. On the therapeutic indications of drugs, as to their potency as far as deterioration is concerned, does the law provide it has to be on the label to let the consumer know how long the drug is good for and after what time it is deteriorated?

Mr. LEA. Yes; and methods of preserving its contents.

Mr. SIROVICH. That is a very excellent thing.

Mr. LEA. Then increased penalties are provided. Under the present law, as I recall, the maximum penalty is $500 and the ordinary penalty is $300. The bill we report fixes a maximum penalty of $10,000 and a maximum time in jail of 3 years instead of 1 year as under the present law.

The main object of so increasing these penalties is to provide suitable penalties due to the changed conditions since 1906. We have a great many institutions manufacturing drugs and foods that are very strong financially and we thought these higher penalties are justified in view of present conditions and to cover cases of the persistent violator.

Mr. SIROVICH. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield to the gentleman.

Mr. SIROVICH. Is there anything in this new bill that pertains to multiple seizures?

Mr. LEA. Yes; there is.

Mr. SIROVICH. What does it do?

Mr. LEA. We have a provision that, to a degree, limits multiple seizures, but it does not interfere where the article is injurious to health or where its sale would be a gross imposition on the public; in fact, the limitation is a very mild one and does not interfere with the fundamental purpose of protecting health and protecting against cases of gross fraud.

Mr. SIROVICH. Does multiple seizure in this new legislation interfere particularly where the drug is highly toxic and may poison thousands of people around the country?

Mr. LEA. It does. The right of multiple seizure in such a case would exist.

Mr. EBERHARTER. Mr. Chairman, will the gentleman yield?

Mr. LEA. Briefly, because I must go ahead with my statement.

Mr. EBERHARTER. The gentleman has noted subsection (1) of section 403 which pertains to alcohol and states that the term "whisky" shall not be branded on anything distilled from any material except grain. In other words, if you made whisky from anything except grain alcohol or grain, you could not label it as whisky; is that correct?

Mr. LEA. Yes.

Mr. EBERHARTER. Is it not a fact that whisky is made from substances other than grain?

Mr. LEA. Whisky is now made from other substances to a limited extent.

Mr. EBERHARTER. In other words, if this particular section went into effect it would put out of business all distillers that made whisky from any substance other than grain?

Mr. LEA. It would deny the use of substances other than grain, but there is a provision permitting 2½ percent for color and flavor and, of course, it would not put a distiller out of business, but would deny him this particular class of manufacture so far as marketing his product as whisky is concerned.

Mr. EBERHARTER. In other words, he could not label his product "whisky" if it was not distilled from grain?

Mr. LEA. Yes. The theory back of that, I take it, is that originally all whisky was made from grain and we have a good many of the distillers who follow that practice now and they feel that the liquor that is entitled to such a term is a product made solely from grain. We do have the other class to which the gentleman refers, which do make whisky, a part of which is not made from grain.

Mr. EBERHARTER. Does not that in effect give a tremendous advantage to those distilleries which at present use grain? Whisky does not, in its ordinary sense, mean that it must be distilled from grain alone.

Mr. LEA. I think it would cause serious trouble, were it not for the limited extent to which this type of whisky is made.

Mr. EBERHARTER. Then the effect of this section would be to either outlaw those distilleries not making whisky from grain, compel them to go out of business, or else compel them to change their plants that they would use only grain.

Mr. LEA. As far as my information goes no plants are devoted solely to making whisky from sources other than grain, and then only to a very limited extent do any of them make whisky from sources other than grain.

Mr. STEFAN. Mr. Chairman, will the gentleman yield? The gentleman always makes a wonderful explanation of any bill that he brings on the floor, and I am very much interested in the questions put to the gentleman from California by my colleague from Pennsylvania [Mr. EBERHARTER], in respect to whisky. I have a bill introduced in the House which would prohibit the labeling of anything so far as it is whisky unless it is made from grain only. It has always been considered that whisky is a distillate of grain, under the famous Taft decision in the Supreme Court. It was generally considered that whisky was always distilled from grain. As a result of some changes in our laws the Blackstrap Molasses Trust have taken away from the American farmer a potential market of 30,000,000 or 40,000,000 bushels of corn, as a result of distilling blackstrap molasses into whisky.

During our campaign to eliminate prohibition, it was promised the farmer that he would have a market for his corn if he would vote for the elimination of prohibition. That promise has not been kept, and I think this is one step in the right direction to give back to the farmer and carry out the promises to the farmer.

Mr. LEA. We can discuss that further.

Mr. STEFAN. Will the gentleman discuss that with me when we come to the section on page 64?

Mr. LEA. Yes.

The CHAIRMAN. The gentleman from California has consumed 20 minutes.

Mr. LEA. Mr. Chairman, I yield myself 10 additional minutes. I ask the attention of the Committee to the matter of a court review. The bill as it passed the Senate provided for a court review, and the bill as it is presented to the House provides for a court review, and, in my judgment, a very much better provision than the Senate bill. But let us consider the background. We have the most complicated system of government in this country that the world has ever known. A very important feature of it has developed during the last 20 or 30 years, and that is the establishment of bureaus clothed with the authority to make regulations and govern the conduct of the American people.

Those regulations have the force of law, the same as if enacted by the Congress. In making those regulations the departments act as the agents of Congress. A man under this bill, if it is enacted into law, may be sent to prison for as much as 3 years because he has violated a regulation established by the Secretary of Agriculture. That is only one of many instances.

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield?

Mr. LEA. I shall have to decline, because I have only 10 minutes. We have to a startling degree an irresponsible making of laws in the name of Congress, without fair opportunity for thorough consideration, without the country knowing who is responsible for them, written by people the country does not know, and frequently with little opportunity to assure that the regulations are just or wise.

In my judgment one of the greatest menaces to popular government in this country is this vast structure of bureaus. I am not condemning it. I think it is necessary under our system of government. Our State lines have become more or less eliminated by the changes in our economic conditions. It has been inevitable that we must exercise more power here in Washington than in the decades gone by. We must accept that fact; but we must not ignore the fact that the people deserve protection against arbitrary and capricious government, against inexperience and ignorance by the departments that exercise this semilegislative authority.

In this bill we give a broad extension of authority to the Secretary of Agriculture, and in that respect it is one of the broadest bills ever passed by this Congress in ordinary peacetimes.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. LEA. I am sorry, but I have not the time. We give more authority to the Secretary under this bill than any white man ought to have unless with it there is proper restraint by the courts. That is what we have tried to do here. We have tried to provide an intelligent, fair, and orderly system so that the departments will have rules to go by, so that they will know what their rights are and the people will know what their rights are, and such a procedure can be safely followed.

The present law is very crude and undeveloped. The administrative law in this country has practically been built up on court interpretation. It is indefinite, confusing, and conflicting, not affording certainty to the departments or litigants. It is to remedy that condition that we propose this method of restraint against arbitrary action.

The practical problem presented by court review is whether you are in favor of a government by edict or whether you favor a government by orderly procedure, a government under which the citizen shall have a right to be heard and will get fair consideration before these regulations are enacted. Recently the Supreme Court rendered a decision in reference to the question of what these departments should do.

This bill was written before the Supreme Court decision was handed down, but the bill does in effect what the Supreme Court said these departments ought to do without any legislation by the Congress. The Supreme Court said the maintenance of proper standards on the part of administrative agencies in the performance of their quasi-judicial functions is of the highest importance and in no way cripples or embarrasses the exercise of their appropriate authority. On the contrary it is to their interest, for as we said at the outset if these multiplying agencies deemed to be necessary in our complex society are to serve the purpose for which they were created and endowed with vast powers, they must accredit themselves in accordance with the cherished judicial tradition embodying the basic conception of fair play.

The question of time is raised. It is urged that these regulations must be made on the minute and that there is no time for consideration such as here would be provided. While this legislation is a substitute for the action of Congress, how long does it take to pass an act through Congress, even though it may be very important or necessary? There is nothing in this court review that will interfere with proper procedure and promptness in taking care of any emergency that may arise; in fact, the bill by its terms provide that as to the emergency conditions a regulation may be put into effect immediately by the Secretary before there is any chance to pass it in Congress. By prescribing a clearly defined procedure these provisions will reduce litigation and hasten the disposal of cases.

I wanted to call the attention of the House to the particular regulations that are affected by this court review, but on account of the limited time I will not at this time enumerate those powers. For the present it is sufficient to say that they are very broad and very important. It is these broad powers that no man should seek or want to exercise unless the court has a reasonable right to review his conduct from the standpoint of arbitrary action.

In substance, this court review section provides that on initiation of the Secretary himself, or on application of the industry, hearings shall be had for the purpose of considering the adoption of regulations. The Secretary holds the hearings; notice is given all interested parties. They have a right to participate. Finally the Secretary makes a finding and makes an order providing for the regulation. Then if there is an actual controversy an interested party may go to the court and bring a suit to test the validity of the regulation. In that event he files his case in the district court.

Here is one of the controversies—the main one, in fact. I may at this time explain that there has been, as I understand it, three differences between the Department of Agriculture and this committee provision. One was in reference to the hearing before the Secretary. The bill provides that on the request of an industry or a substantial portion of it the Secretary shall hold a hearing. The authorities of the Department of Agriculture objected to this provision, claiming that it deprived the Secretary of all discretionary powers.

I shall offer an amendment at the proper time providing in substance that when reasonable cause is shown the Secretary shall call the hearing. This will obviate any dispute over that question.

Another objection of the Department of Agriculture was that when the complainant went into court he was to have the privilege of introducing testimony, although he had neglected to produce it at the hearings before the Secretary. This was objected to on the ground that it was unfair for a man to be silent while the Secretary was holding a hearing and then go to court and ask to introduce testimony. The committee tried to meet this objection by adopting a provision requiring that when the complainant goes into court he must show that the testimony he offers is material, and he must show good cause why he did not produce it at the time of the hearings conducted by the Secretary. So we met the second objection of the Secretary.

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, there is one other objection we have not met and that is the court that shall have jurisdiction to try the case. As I understand it, the Secretary wants all cases brought to trial in the city of Washington. The committee thought these cases ought to be tried like other cases, that the citizens throughout the country ought to have the right of trial at the place where they reside or where their principal place of business is located. When the Department sues an individual citizen it sues him wherever jurisdiction may be had. The members of the committee reached the conclusion that the citizen of this country ought to have the same right in reference to this case as in other important cases and have the case tried in the district where he resides or has his principal place of business.

Mr. MARTIN of Colorado. Will the gentleman yield?

Mr. LEA. I yield to the gentleman from Colorado.

Mr. MARTIN of Colorado. I thought we unanimously agreed on that proposition. Is there any difference?

Mr. LEA. What is that?

Mr. MARTIN of Colorado. I thought the committee unanimously agreed on that proposition.

Mr. LEA. We agreed that the local court should be the place of trial, but objection is made to that here, and that seems to be the principal point of dispute; that is, whether anyone who wants to test this must come to Washington or whether or not they will be given the privilege of trial in the district courts throughout the country.

Mr. Chairman, the Members may have read the minority report in this case. I think it is unfair and unwarranted and has a degree of misleading contentions that is regrettable. In the first place, one of these objections that was made by the Department we corrected before the bill was reported. The Secretary's letter was written before this correction was made. It is inserted in the minority report and has been circulated throughout the United States and has been made the basis of propaganda on the theory that the thing which we corrected is still in the bill.

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield myself 1 additional minute.

Mr. LEAVY. Will the gentleman yield?

Mr. LEA. I yield to the gentleman from Washington.

Mr. LEAVY. Are the provisions of this act retroactive insofar as orders now in existence by the Pure Food and Drug Department may be taken to court and there examined or determined?

Mr. LEA. No.

Mr. LEAVY. If there are now, as there are, arbitrary departmental regulations that virtually destroy an industry, do not the people who may be affected by this legislation have any relief?

Mr. LEA. Yes, indeed. They can do what I was trying to describe. They may come in and ask for the new regulation to eliminate the injustice of an old one.

Mr. LEAVY. I just asked the gentleman if this would grant them relief.

Mr. LEA. Yes.

Mr. LEAVY. The apple spray regulation is one of that type and character and has been judicially determined to be such.

Mr. LEA. The gentleman is right. The existing regulations would be subject to petition for reconsideration.

Mr. SIROVICH. Will the gentleman yield?

Mr. LEA. I yield to the gentleman from New York.

Mr. SIROVICH. I would like to call the gentleman's attention to the fact that in our Committee on Fisheries, from Alaska to the great States of Washington and Oregon complaints have come on the seizure of thirty, forty, or fifty thousands cases of salmon that may be contaminated, where the owners never have a chance to have their expert take a sample to determine themselves whether it is contaminated on the basis of presenting that information to the court.

In view of the fact they have been clamoring for 12 years before our committee to get this right, would the gentleman be willing to accept an amendment to the bill which would give the right to these great owners of twenty, thirty, forty, or fifty thousand cases of salmon to have their experts, when the Government condemns this, take a sample?

Mr. LEA. This bill provides for that. Samples would be furnished the owner.

[Here the gavel fell.]

Mr. MAPES. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I have no idea of making any extended remarks on this bill. I do wish, however, to make a few observations, in regard to it and I may as well start where the chairman of the committee, the gentleman from California, left off when he said the minority report was unfair and misleading in quoting the letter of the Secretary of Agriculture. As I said when we considered the rule, I fail to see how anything could be more explicit than the statement on that subject in the minority reports as follows:

> The section as submitted to the Secretary of Agriculture was the same as the section as reported by the majority of the committee, except in two particulars, one of which weakens the enforcement provision of the section, the other of which has no effect on it one way or the other, in our opinion.

It may be conceded that the gentleman from California [Mr. LEA] entertains a different view. The minority was not attempting to state his opinion. The minority report says that the language of the section as reported is not the same as it was when submitted to the Secretary of Agriculture. Those of us who signed the minority report, however, do say that, in our opinion, it is in substance the same, and the report specifically points out in just what particular the two drafts differ. The minority report continues:

> The committee amended the draft of the section as submitted to the Secretary (1) by striking out of the committee substitute, page 82, line 19, after the word "shall", the words "if in his judgment sufficient reason appears for so doing."

The chairman of the committee said he intended to offer an amendment to the section to remedy some of the harm done in striking out the language referred to in the minority report, thereby in effect admitting the correctness of the statement in the minority report that the action of the committee in striking out the language weakened the enforcement provision of the section. Was there anything unfair in calling attention to that in the minority report?

I quote further from the minority report:

> and (2) by inserting, page 84, line 8, after the word "shall", the words "upon the showing that such additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence at the proceeding before the Secretary."

The minority says that without this language, in its opinion, any court would require that showing to be made before allowing additional evidence to be introduced.

I submit that any lawyer upon the floor of this House will agree with the statement. Whether that language is specifically written into the section or not, would not a court require a showing that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence at the proceeding before the Secretary before the court would allow additional evidence to be taken?

Those are the only two differences between the draft which was submitted to the Secretary before the committee made its report and the draft as it appears before you today. Furthermore, of course, as a practical matter the Members of the House know that this new draft probably was submitted to the Secretary of Agriculture and the Food and Drug Administration before the minority report was drawn up.

My opposition to this section is not due primarily to the fact that a party aggrieved can proceed in any district court in the United States to contest the validity of an order or regulation of the Food and Drug Administration, although I am opposed to that provision. I am more opposed, however, to the provision which allows the court to open up the case and take new testimony before the court itself or a master. The language giving the court that authority will be found on page 84, beginning at line 8:

> The court shall, upon the showing that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence at the proceeding before the Secretary, permit the complainant to supplement the evidence in such record by adducing additional evidence, which the Secretary may rebut, bearing on the validity of the order. For this purpose, the court may require such evidence to be taken before the court or a master, or may remand the case to the Secretary for the taking of such evidence and the making of such amendment to his order as may be required.

Although I have not examined all the statutes, I am advised, and it is my opinion, that there is no law on the statute books now of that exact wording applying to any other commission or any administrative agency in the Government. It is a unique provision, as far as I am advised. The usual provision is that if, upon an appeal to the court, the court finds that material evidence has developed since the hearing before the commission or administrative officer, the court shall remand the case to the commission or administrative officer for further testimony. I know of no case where the court itself is allowed to open up the case and take testimony. This is the point involved here.

Most of you have had experience with State commissions. Take your State railroad commissions as an illustration. Suppose an appeal could be taken from an order of a State railroad commission to the State courts, and, upon a showing that material evidence had developed, the court could proceed to hold hearings. If that were allowed a State commission would never get anywhere in the enforcement of the law.

I have before me several of the acts creating various commissions. Here is the language in the Bituminous Coal Commission Act:

> After an appeal has been taken, the finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive.

That is far from the language of the provision in the pending bill.

> If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission—

Does the court take the evidence? No—

> the court may order such additional evidence to be taken before the Commission.

The theory of that is that the Commission is entitled to have all the facts before it, just the same as the court.

This is the act creating the National Labor Relations Board about which we hear so much:

If either party shall apply to the court for leave to adduce additional evidence—

And so on. The language is the same as I have just read.

The findings of the Board as to the facts, if supported by evidence, shall be conclusive.

That is the language in the laws creating practically all commissions and regulatory bodies, "the findings of fact if supported by evidence." Sometimes the word "material" or the word "substantial" is inserted before the word "evidence" shall be conclusive, but if material evidence develops after the hearings before the commission or administrative officer, the court remands the case to the commission or administrative officer to take the additional evidence.

Here is the provision in the law governing stock exchanges.

The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission.

The same is true of the law relating to the issuance of securities.

The law relating to the Radio Commission contains the following provision:

Provided, however, That the review by the court shall be limited to questions of law, and that findings of fact by the Commission, if supported by substantial evidence, shall be conclusive, unless it shall clearly appear that the findings of the Commission are arbitrary or capricious.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MAPES. I yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. If provisions such as were written into the Bituminous Coal Commission Act were written into this bill, would that expedite or delay action?

Mr. MAPES. It would expedite action.

Mr. ROBSION of Kentucky. That is the main purpose of it; and it is the gentleman's contention that we would get quicker action and it would lead to more effective enforcement of the act?

Mr. MAPES. Exactly. In the language of the Secretary, we propose to hamstring the Food and Drug Administration in the administration of a health law, but we give no such authority to the courts in the enforcement of stock exchange regulations, securities regulations, or the work of the Radio Commission and these other commissions.

Mr. LEAVY. Mr. Chairman, will the gentleman yield?

Mr. MAPES. I yield to the gentleman from Washington.

Mr. LEAVY. I notice that in the gentleman's answer to the question just propounded he stated in substance that these provisions would expedite proceedings. It appears to me it would have just the opposite effect if the court were compelled to remand the case to the Commission for the taking of further testimony, for if the case were then reopened, and a record made, and the case reconsidered, certainly there would not be a saving in time.

Mr. MAPES. Did the gentleman ever hear of the telephone cases that took 14 or 17 years to get from the State commission of Illinois into the Supreme Court of the United States?

Mr. LEAVY. Yes; I have heard of them, but they are not necessarily on all fours at all with the matter we have here.

Mr. MAPES. As has been said here, if we are going to experiment, let us not experiment on matters of health.

Mr. LEAVY. If the gentleman will yield further I would like to ask another question. Is not the section the gentleman has under discussion and with which he finds fault quite different from those that he referred to where the various commissions have hearings, in that the aggrieved individual here seeks an injunction and the court is asked to issue either a temporary or a permanent restraining order against the order theretofore made by the Food and Drug Administration based upon a record?

Now, why does the gentleman find fault with the court being permitted in that instance, since they make a judgment which is apt to be a final one, to hear further testimony upon the part of either of the parties?

Mr. MAPES. If I have not made my position clear to the gentleman, I am afraid I cannot do so.

As has been pointed out, this bill provides for proceeding before any district court. These other statutes to which I have been referring and extracts from which I have read, provide that proceedings may be started in the Circuit Court of Appeals of the United States within any circuit wherein the person aggrieved resides or has his principal place of business, or in the Court of Appeals of the District of Columbia.

This legislation goes to the extreme in giving the right to proceed in any district court.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. MAPES. I yield.

Mr. TOWEY. Has the gentleman, as a member of the committee, any comment to make on section 305, which would seem from a reading of the section to provide that the Secretary has the right to determine whether a criminal violation has been committed or whether he should extenuate it or pass it on? Is not this something new in procedure, when a violation of an act in a criminal respect has been committed, and should it not be committed to the courts rather than to let the Secretary determine it?

Mr. MAPES. I have not the time to go into that, I will say to the gentleman.

Mr. TOWEY. I will ask unanimous consent that the gentleman's time be extended if the gentleman has any views as a member of the committee on that subject.

Mr. MAPES. I do not know that I could answer the gentleman positively and I do not care to go into the question without being able to do so. [Applause.]

The minority report on the committee substitute is as follows:

MINORITY VIEWS (TO ACCOMPANY S. 5)

The undersigned, members of the Committee on Interstate and Foreign Commerce, submit the following minority views with respect to one of the most important features of the bill, namely, provisions for court review of regulations of section 701 (f):

It is our view that the bill, if enacted with this review provision, will not afford any substantial improvement in consumer protection over the terms of the present law. In fact, in some respects it represents an impairment of the consumer-protective features of the present law.

Section 701 (f) sets up a method of court review of regulations that is wholly unprecedented. It is specifically provided that this method of review is in addition to, and not in substitution for, other methods of review provided by law, such as equity proceedings and proceedings under the Declaratory Judgment Act.

Regulations subject to this new form of review relate to the identity and quality of food; to requirements for informative labeling of special dietary food, such as that used by infants and invalids; to food contaminated with disease organisms where distribution might result in serious epidemics to the addition of poisons to food; to the certification of coal-tar colors for use in foods, drugs, and cosmetics; to establishing adequate laboratory tests for important official drugs; to the listing of narcotic and habit-forming drugs; to label warnings against probable misuse of dangerously potent drugs; and to label directions for the preservation of potent drugs liable to deterioration.

These provisions constitute the very heart of any worthy food and drug legislation. If the public health and welfare are to be adequately safeguarded, regulations putting these provisions into effect should be promptly and effectively enforceable and certainly should be subject to no greater restrictions and delays in review by the courts to determine their validity than regulations authorized by other Federal laws which deal with economic questions rather than the vital questions of public health concerned in this legislation.

Section 701 (f) permits any person who will be adversely affected by one of the regulations listed above to file, any time within 90 days after the regulation has issued, a complaint in the district court for the district where such person resides or has his principal place of business to enjoin the Secretary of Agriculture from enforcing the regulation. For example, if a regulation is issued requiring label warnings against probable and dangerous misuse of a certain class of patent medicine, then each manufacturer of that class of medicines and each dealer who profits by the sale of the medicines may file a complaint in his local

district court to enjoin the enforcement of the regulation. If a single district judge could be found who would issue an injunction against such enforcement, the regulation could not be enforced at any place in the United States, even though every other district judge in the country had refused to issue an injunction. The provision would therefore clothe each and every district judge with authority to block the enforcement of a regulation throughout the United States. This is an extraordinary extension of jurisdiction and an extraordinary grant of power never heretofore seriously advanced in the entire history of the country. As suggested in the letter of the Secretary of Agriculture, a copy of which is hereto attached, if there is to be an exploration into new forms of court review of administrative regulations specifically authorized by congressional enactment, it is our conviction that such experimentation should be made in fields other than those of vitally important health laws.

Even if the injunction which blocks the enforcement of a regulation can be overturned in appellate courts, there is a provision under the preceding subsection (701 (e)) whereby the question can be reopened and the regulation again subjected to the same hazards. This provision requires that—

"The Secretary, on his own initiative, or at the request of any interested industry or substantial portion thereof, shall hold a public hearing upon a proposal to issue, amend, or repeal any regulation * * *."

If the manufacturers of the class of patent medicines referred to above, or any substantial proportion of such manufacturers, demanded a public hearing on a proposal to amend or repeal a regulation previously validated by the courts after litigation under subsection (f), the Secretary would have no alternative but to hold such a hearing and to follow the prescribed procedure laid down by subsection (e) under which he would issue an order continuing the regulation in effect. The continuation of the regulation by such order would then become subject within the 90-day period prescribed to the filing of a second crop of complaints throughout the United States. If a single district judge could again be found to issue an injunction, the regulation would again be rendered ineffective.

In most of the industries affected by the bill there are sufficient minorities, vociferously opposed to any form of regulation, to form a substantial proportion of the industry. These could be depended upon in practically every instance in which a regulation is required for the protection of public welfare to resort to the tactics above described and prevent indefinitely the effectuation of the purpose of the law.

The procedure set up in the bill to restrain the Secretary, while in form only seeming to protect industry rights, in effect amounts to the placing of the control of enforcement in the hands of those whose interests are contrary to public welfare and who have created the need for legislation.

It is true that the scope of the old law is broadened by the bill to include cosmetics, therapeutic devices, and certain drugs which are not now subject to regulation. It is true that in many instances the definitions of adulteration and misbranding have been expanded and strengthened, although even these improvements are studded with a notable number of exceptions. It is also true that the procedural provisions have been strengthened through authorization of injunction proceedings, although this, to some extent, is nullified by changes from the seizure section of the existing law, particularly that under which trial of seizure cases will in many instances occur in producing jurisdictions before juries whose sympathies would ordinarily be with local industries rather than in consuming jurisdictions where juries would be expected to display less bias.

Weighing the advantages and disadvantages for the protection of consumer welfare presented by the terms of this bill, we are unable to escape the conclusion that because of the extraordinary provision for court review of regulations in section 701 (f), which would postpone indefinitely the consumer protection that can now be afforded in some degree by the present law in much of the field to be covered by these regulations, it would be better to continue the old law in effect than to enact S. 5 with this provision.

If there is to be exploration into new methods of court review, such a radical departure from the well-established Federal procedure as is here proposed should be the subject of a separate bill, applicable to all Federal laws authorizing regulations, to be considered on its own merits. This important health legislation should not be made the sole medium for such experimentation.

Under date of March 28, 1938, the undersigned [CHAPMAN and MAPES] submitted the then latest draft of section 701, the court-review section, of the bill to the Secretary of Agriculture and asked for his views in regard to the same.

The following is a copy of his reply:

MARCH 29, 1938.

Hon. CARL E. MAPES,
House of Representatives.

MY DEAR MR. MAPES: Receipt is acknowledged of your letter of March 28, 1938, with which you enclose a copy of chapter VII, General Administrative Provisions, section 701, from the latest edition of S. 5 as agreed upon by the Interstate and Foreign Commerce Committee of the House. You ask for an expression of my opinion of the effect of the provisions of this section upon the administration of the measure.

I am of the opinion that if section 701 (f) remains in the bill its effect will be to hamstring its administration so as to amount to a practical nullification of the substantial provisions of the bill.

The clear intent of S. 5 is to close the channels of interstate commerce to food, drugs, devices, and cosmetics that are adulterated or misbranded. Because of the complex and technical nature of the subject matter involved a number of the most important definitions of adulteration and misbranding are incomplete and must have their clearly stated outlines filled in with scientifically accurate details before they can be enforced. The bill delegates to the Secretary of Agriculture the quasi-legislative power to ascertain the necessary technical facts and supply the details that will complete these definitions, thus effectuating the legislative will.

The Secretary is entrusted with these powers in connection with sections 401, 403 (j), 404 (a), 406 (a) and (b), 501 (b), 502 (d), 502 (f) exclusive of the proviso, 502 (h), 504, and 604. These sections are extremely important. They relate to the identity and quality of food, to requirements with respect to special dietary food, to contaminated food, to poisonous substances in food, to coal-tar colors in food, drugs, and cosmetics, to determine adequate tests for official drugs, to narcotics and habit-forming drugs, to probable misuse of dangerously potent drugs, and to labeling drugs liable to deterioration.

Section 701 (f) permits any person who will be adversely affected by any order authorized by the sections listed above to file, any time within 90 days after the issuance of the order, a complaint in the district court for the district where such person resides or has his principal place of business, to enjoin the Secretary from placing the order in effect. This subsection contains the unique provision directing the courts to permit the complainant to supplement the evidence recorded in the Secretary's hearing upon which the order was based. This constitutes an invitation to those who would obstruct the enforcement of a regulation to withhold or conceal evidence that should have been given in the hearing and to employ such evidence merely for the purpose of upsetting the order and thus postponing indefinitely the enforcement of the regulation. In the event such order is upset there is nothing to prevent the same complainant from instituting new proceedings on a new order and thereby causing further delay. In fact, every amendment of an order could be a ground for the institution of new proceedings.

Even though a number of district courts might uphold an order, demanded alike by the public and by the overwhelming majority of the industry regulated, to terminate abusive practices, a single district court could enjoin permanently the enforcement of the regulation.

Frankly, I regard this provision as unfair to the Department, to the public, and to the industries regulated, the majority of which unquestionably would support regulations, based on substantial evidence, which the Secretary of Agriculture would promulgate. It would constitute a serious impediment to orderly administrative operations. If a bill containing this provision were enacted, it would not constitute any material contribution to the public protection that the Department cannot now extend under the existing law. In some respects it would afford even less protection than that afforded by the existing law, which is broad and general in its terms and is to some degree applicable and effective in the fields covered by the sections involved in this discussion.

It is the Department's considered judgment that it would be better to continue the old law in effect than to enact S. 5 with this provision.

If there is to be exploration into new fields of administrative law, may I urge that it not be in the field of vitally important public-health legislation.

There has not been sufficient time to permit the Department to ascertain the relation of the foregoing to the program of the President.

Sincerely yours,

H. A. WALLACE, *Secretary.*

Attention is called especially to the following statements in the letter of the Secretary:

"I am of the opinion that if section 701 (f) remains in the bill its effect would be to hamstring its administration so as to amount to a practical nullification of the substantial provisions of the bill.

"It is the Department's considered judgment that it would be better to continue the old law in effect than to enact S. 5 with this provision.

"If there is to be exploration into new fields of administrative law, may I urge that it not be in the field of vitally important public-health legislation."

The section as submitted to the Secretary of Agriculture was the same as the section as reported by the majority of the committee, except in two particulars, one of which weakens the enforcement provision of the section, the other of which has no effect on it one way or the other, in our opinion.

The committee amended the draft of the section as submitted to the Secretary, (1) by striking out of the committee substitute, page 82, line 19, after the word "shall", the words "if in his judgment sufficient reason appears for so doing"; and (2) by inserting, page 84, line 8, after the word "shall", the words "upon the showing that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence at the proceeding before the Secretary."

As stated, the first amendment weakens the enforcement provision of the section. The second one requires nothing more than a court would ordinarily require without it.

If this bill is enacted into law with section 701 (f), the court-review section, in it, as reported by a majority of the committee,

what started out as an effort on the part of the advocates of a more adequate food and drug law to enlarge the scope of the existing law, to fill in the loopholes in it, and to put more teeth into it, will end with having accomplished the directly opposite result and years of earnest effort will have gone for worse than naught.

VIRGIL CHAPMAN.
JERRY J. O'CONNELL.
CARL E. MAPES.
CHAS. A. WOLVERTON.
JAMES WOLFENDEN.
PEHR G. HOLMES.

Mr. MAPES. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. BOILEAU].

Mr. BOILEAU. Mr. Chairman, I want to say at the outset that the matter I shall refer to is one that was given some consideration in the committee, and I may say that the committee gave every consideration to the cheese industry. They were perfectly agreeable to have any amendment put in the bill that might be helpful to this industry. Inadvertently, however, and I am sure without intent on the part of any member of the committee, quite a serious injustice is being done the cheese industry in this bill. I feel confident that the chairman of the committee and other members of the committee will be willing to accept the amendments that I shall propose which are necessary in order to protect the cheese industry.

On page 58, at line 2 of the bill, there is language which has, as its effect, precluding the Secretary of Agriculture from fixing certain standards. In other words, under the philosophy of that section, the Secretary can fix certain standards, but states, as written now, that so far as fresh fruits and vegetables are concerned and so far as butter and cheese are concerned the Secretary shall not fix standards. This was put in because the friends of the dairy industry thought this was the way to protect the cheese industry.

The butter industry, as I understand it, wants to remain in the bill, but by putting the word "cheese" in there it means the Secretary of Agriculture cannot fix standards for cheese, and the cheese industry is unanimous in wanting the Secretary to fix these standards. I think this will appeal to your good common sense when you stop to realize the different kinds of cheese that are on the market, various types of cheese, imported and domestic; and, therefore, if we are to maintain high standards for cheese, it is necessary that the Secretary of Agriculture retain the power that he now has to fix standards for cheese.

Mr. SIROVICH. Why was it taken out?

Mr. BOILEAU. The gentleman from New York asks me why was cheese put in there. It was put in there along with butter, and it was thought at the time that it would be helpful to the cheese industry; but I want to say—and I can say this without fear of contradiction—that there is not a Member of the House who has any other information than what I am going to give you now, and that is this: The cheese industry is unanimous in wanting this stricken out of the bill.

I have a letter here from the National Cooperative Milk Producers Federation, an organization representing all the cooperative cheese factories in the country, wanting the word "cheese" stricken from the bill.

I also have here a letter from Mr. George L. Mooney, the secretary of the National Cheese Institute at Plymouth, Wis., which is the cheese center of the world, and he wants cheese stricken out of the bill.

So that as far as the cheese industry is concerned, it is unanimous in wanting that power left in the Secretary of Agriculture, and in wanting him to continue the fine work he has done in establishing these standards of quality in the cheese industry. Although I have not the assurance of the gentleman from California [Mr. LEA], I feel certain that he will at the present time be willing to accept this amendment, because I know the word was put in under the assumption that the cheese industry wanted it in there.

In connection with that amendment, there are two others that are essential. One will be to clarify the situation that I have referred to by striking out of the provision on page 92, lines 7 and 8, the following language:

The act of June 6, 1896 (U. S. C., 1934 ed., title 26, chap. 10), defining cheese and providing a standard therefor.

That language is now in the bill, and it should be stricken out.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MAPES. Mr. Chairman, I yield the gentleman 2 minutes more.

Mr. BOILEAU. I want to strike out the words "defining cheese and providing a standard therefor" because the cheese industry maintains that that act does not define cheese except only insofar as the act referred to; that is, the Filled Cheese Act. We do not want that language in there because it is subject to misinterpretation. The Filled Cheese Act defines cheese for the purpose of that act, because if these are the standards set up in the Filled Cheese Act, we could not have certain types of cheese. Notably, cottage cheese could not be sold under that term. That act was defining cheese only for the purpose of the Filled Cheese Act.

There is another amendment along the same general lines, and that is on page 92, line 23, to strike out the period in line 23 and insert the following:

; the Filled Cheese Act of June 6, 1896 (U. S. C., 1934 ed., title 26, chap. 10), the Filled Milk Act of March 4, 1923 (U. S. C., etc.), or the Import Milk Act of February 15, 1927.

The purpose of that amendment will be to make it clear without any misunderstanding that those three acts are not modified or repealed in any respect. I am sure the committee will be willing to accept these three amendments. They are all necessary for the preservation of the cheese industry.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. MAPES. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. REECE].

Mr. REECE of Tennessee. Mr. Chairman, it is not my purpose to undertake a detailed explanation of the bill. The chairman made a very excellent explanation. He also pointed out the importance of an extension and strengthening of our present Food and Drugs Act. A great deal of good has been accomplished under the provisions of the present act. The act has been well administered. The present head of the Pure Food and Drug Administration has been conscientious in the administration of the act, and has done a splendid job for which he is entitled to the thanks of the people of the United States. The Pure Food and Drug Administration has been advised with intimately in the drafting of the present bill. It greatly extends the power of the Administration in dealing with this important subject, and I think I am justified in saying that every provision of this act, with the exception of the court-review provision, substantially meets the views of the Department of Agriculture. The committee which has been considering this legislation now for more than 4 years has been very conscientious, and I feel has not given such earnest and sympathetic consideration to any other legislation that has been before it as it has to this bill dealing with food, drugs, and cosmetics. I fear that, due to the emphasis which has been placed on the court review section today, there is a possibility that the House might be misled as to the bill as a whole. As I said a moment ago, this is a far-reaching bill, and the Department of Agriculture takes no exception substantially to any provision in the bill except the one which contains the court review. Then, in that regard, as the chairman of the committee explained, it is not substantial, and he is going to offer one amendment which we hope will go a long way toward meeting the objection against that provision.

This is, in fact, a very drastic pure food and drugs bill, and I think I am rather familiar with the subject. It strengthens the Wiley Act in many important particulars. The bill will enable the Department of Agriculture to effectively protect the interests of the consuming public in regard to drugs and food and also cosmetics, which are being brought within the

jurisdiction of the act for the first time. There are many drastic abuses being committed at present which it is impossible to reach under the present law, violations that greatly endanger the health of the citizens, individually and collectively, and, insofar as the committee and the Department were able to determine, there is no violation which may endanger the health of the public but which can be reached under the provisions of the bill now under consideration.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. MAPES. Mr. Chairman, I yield 2 additional minutes to the gentleman from Tennessee.

Mr. REECE of Tennessee. Regardless of our individual views with reference to the court-review provision, it is impossible for me to bring myself around to the viewpoint that difference of opinion on this court-review provision, granting justification in a large measure for the views of the opponents of the court-review provision, as contained in the bill could nullify this bill in its entirety so as to make it an undesirable piece of legislation. I think the bill justifies the support of every friend of effective pure food, drug, and cosmetic legislation.

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. REECE of Tennessee. I yield.

Mr. HOUSTON. Is it not a fact that outside of the court-review features of this bill all the controversial measures we have had in connection with the bill over the past 4 years have been ironed out?

Mr. REECE of Tennessee. To a remarkable degree to the satisfaction of both the Department and the industry. It is true that the provisions of the bill are far from what the industry would like, but the legitimate part of the industry is in a large measure satisfied with the bill and feels that it can operate under it. I also wish to say for this great industry that it likewise, after the committee got into the consideration of this subject, has shown a reasonable attitude in its cooperation to bring about effective legislation, recognizing that it is to the interest of the legitimate industry as well as the public to have effective legislation upon the subject. [Applause.]

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. HILL].

Mr. HILL. Mr. Chairman, as I entered the Chamber this afternoon I heard an argument on spray residue.

Are sprayed apples dangerous to health? If they are, of course, we do not want the people to eat them. The Food and Drug Administration says "yes." I am afraid that the Food and Drug Administration has been reading a book called "One Hundred Million Guinea Pigs." I remember when I read that book I felt quite creepy. I had the feeling that I was full of germs and that I was going to die the next day; but I have lived quite a number of years since then and I am going to live another half century to disprove the theme of One Hundred Million Guinea Pigs. We have a lot of germs that do not hurt us at all, and we want to take these regulations and articles and books with a grain of salt. When the Food and Drug Administration makes a ruling it refuses to revise its decree even in the face of convincing facts. It is as irrevocable and unchangeable as the laws of the Medes and Persians. These peoples are now only a name on the pages of history. Does the Food and Drug Administration invite a like fate?

Actual experience says "no." We who live out in Washington know people who have sprayed for days, and weeks, and months, and years, three generations of them, and all have lived to a ripe old age; it does not affect them at all. "The proof of the pudding is the eating thereof." Again, boys, girls, men, and women out there eat sprayed apples and we have yet to find a single death not only in our State of Washington but in the United States from eating sprayed apples. I defy anyone on the floor of this House to show me any case of death from the eating of sprayed apples.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HILL. I am sorry, I have not time.

By the way, Mr. Chairman, our boys attending the University of Washington—members of our rowing crew—are called the Huskies. Many of them live out in our orchards and eat sprayed apples from the Yakima and Wenatchee Valleys. They came to Poughkeepsie, I may say to my good friend, the gentleman from New York [Mr. SIROVICH], and for 2 successive years, the varsity, the junior varsity, and the freshmen, all three groups, won the regatta. They went to the Olympics and won that, too. "They came, they rowed, they conquered"; and they have been eating sprayed apples since childhood. My friend from Kansas [Mr. HOUSTON], the House wit, wonders what they would do if they ate spinach.

Mr. HENNINGS. Mr. Chairman, will the gentleman yield?

Mr. HILL. I hardly have the time.

Mr. HENNINGS. Who has won more regattas than the University of Washington at Poughkeepsie, since we are digressing?

Mr. HILL. None that I know of in late years. We also have in Washington inspectors who have tested apples from nonsprayed orchards and they find a residue of 0.018 on these apples. There cannot be anything the matter with the apples, there must be something the matter with the inspectors. This thing can be overdone, and we believe that it is being very much overdone.

What does this low-residue requirement do? It is unfair to the growers. A few years ago the growers used to wash their apples at their homes, doing the washing, sorting, and packing themselves, they and their families. Now they have to take their apples to packing houses where very expensive washing machines are used and the overhead is something unbearable. That is why a great many of our farmers are going under, financially. Secondly, it is not only unfair to the growers but it also impairs the keeping quality of the apples. In order to wash this spray off they have to use water at a temperature which almost cooks the apples. It impairs the keeping quality of the apples so that when we ship them out they do not hold up. In the third place, it decreases the demand of our consumers because the people in the East and people in Europe hear about this "terrible" spray and they do not want to buy our apples.

Mr. LEA. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. HILL. Mr. Chairman, I hold in my hand a book which I wish the distinguished doctor from New York [Mr. SIROVICH] would read. I will give it to him for that purpose. It is filled with affidavits from members of his profession in our State to the effect that there has not been a case in all the history of the State of Washington of death from this spray.

Mr. SIROVICH. Will the gentleman yield?

Mr. HILL. I gladly yield to the gentleman from New York. He is one of the most liberal and progressive members of this body. He always most eloquently discusses subjects of interest and importance on the floor of this House.

Mr. SIROVICH. I sympathize fully with the sentiments of the gentleman. Spraying lead arsenic on apples will not kill any human being, but unless the apples are washed with a diluted solution of hydrochloric acid they may cause gastrointestinal disturbances. May I pay tribute to the wonderful apples that the great State of Washington produces and to the fine and loyal representative they have in you.

Mr. HILL. Mr. Chairman, the Appropriations Committee took $50,000 from the food and drug department to give to the Public Health Service, which is making an investigation of this matter. This is the proper department to make this investigation thorough and conclusive. Two aides of Dr. Sayre down in his department have been experimenting on themselves by injecting this into their blood. We never get it that way out West. The only way we get it is by eating it; that is, by ingestion. We eat it and absorb some of it. The third way of getting this toxin is by inhalation when they spray. These aides have been experimenting by injection, ingestion, and inhalation for 2 months with no ill effects, and they take five times as much poison into their bodies as

one would get in the way of eating sprayed apples. The Public Health Service is making an investigation throughout the State of Washington also by watching and testing those who operate spray machines, and I think in the next 3 or 4 months they will prove this spray residue scare the bogy that it really is. They will prove it is all a myth and that there are no deleterious or injurious effects from the eating of sprayed apples.

There is one thing more I want to mention. The acid in the apple seems to have a neutralizing effect on the spray residue, so that the people who eat the apples suffer no serious effects from the toxin. We of the State of Washington are very much interested in this problem, and we are very serious, because we produce 34 percent, or one-third, of the commercial apples consumed in the United States, and we do not want our growers to be injured and practically driven out of business by arbitrary regulations automatically imposed by some Federal bureau here at Washington. [Applause.]

[Here the gavel fell.]

Mr. MAPES. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. HOFFMAN].

Mr. WOLVERTON. Mr. Chairman, I yield 6 minutes to the gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Chairman, we are considering this afternoon one of the most important pieces of legislation that has come before Congress during this session. Yet, from appearances on the floor of the House very little interest will be taken in this measure. It may be possible that this group of 50 men, or possibly less than 50, as well as the remainder of the Members of the House have a right to rest upon the recommendation of the committee in charge of the bill and vote for it without giving it very much attention. I believe that a measure affecting the health of the 130,000,000 people in this country should have pretty careful consideration by this Congress.

It has been 30 years since the original Pure Food and Drug Act was passed. Not very many important amendments have been added to this legislation during that period of time. Even that measure passed in 1906 was not written by experienced draftsmen, but by a group of well-intentioned amateurs, who followed the New York law. The original draft was amended and changed before it was seriously considered by Congress. Naturally, such a law did not anticipate many modern practices and changes, and no provision was made for them. These omissions have offered handicaps to public protection. A good many weaknesses have been discovered by enforcement officials in their efforts to administer the statute, and many defects have been brought to light by reason of judicial interpretations.

In the Seventy-fourth session of Congress, Senator COPELAND introduced a bill that was intended to improve and strengthen the present food and drug law. Hearings were held on the bill, but it was not given consideration on the floor of the House. Then, in January 1937 Senator COPELAND introduced a new bill, S. 5, similar to the one that was introduced in the previous Congress. This bill was amended and emasculated to a considerable extent by the Senate committee, as well as in the Senate. The bill passed the Senate, with amendments, more than a year ago. Since that time, it has been in the hands of the House Committee on Interstate and Foreign Commerce.

Today, a substitute for the amended S. 5 is brought to the floor of this House under a special rule, without any notice to the membership. We have been given 2 hours' time during which to debate this important piece of legislation. Amendments will be offered, but I think it is sufficient to say that very few changes will be made in the form or effect of the measure which is before us. I feel that if the proponents of this measure were in sympathy with providing legislation to protect the consuming public of this country—they should not have permitted this bill to come to the floor of the House, during the last hours of the session, and ask that it be put through without giving it sufficient time for debate and consideration.

I have been allowed only 7 minutes' time during which to speak on this measure, but I think I can say, without contradiction, that in nearly all cases where amendments and changes have been made in this bill, that they have not been made in the interests of the consumer. What I mean to say is that S. 5 when first introduced was a fair and reasonable bill, designed primarily to give the public real protection. The measure which has been brought before us is such a departure from that bill that this Congress would do the country a favor if it would recommit the bill to the Committee on Interstate and Foreign Commerce, rather than allow it to be enacted into law. I am willing to give credit to the members of the committee for having given this measure a lot of consideration, but am not willing this afternoon to give the committee very much credit for the explanation that has been made on this bill. I am willing to admit there are a number of items in this measure that are worth while As a matter of fact, they should be enacted into law, but I do not believe this legislation, taken as a whole, should be passed by Congress.

I have the highest regard for the gentleman from Ohio [Mr. FLETCHER]. He stated his case very frankly. It was suggested by a constituent that he offer an amendment to this bill. This he has a right to do. If he decides that such an amendment is not for the best interests of the consuming public, he will not even propose it. He is to be commended upon his position in this respect.

Something has been said about this bill having been recommended by the Department of Agriculture, and especially by the Food and Drug Administration. I do not believe the Food and Drug Administration recommends this bill as is. I do not know about it, but just do not believe it does.

Mr. FORD of California. Mr. Chairman, will the gentleman yield for a brief question?

Mr. REES of Kansas. I yield.

Mr. FORD of California. I will tell the gentleman that they do not.

Mr. REES of Kansas. I thank the gentleman.

Conceding that there are many worth-while features in this bill, why weaken them and make them ineffective by including other provisions, which have been pointed out by the Members who have preceded me? This is just another piece of hodgepodge legislation. It has the appearance of being a case where somebody thought we should have legislation on the question of pure food and drugs, and so we have been handed this afternoon, as I view it, a measure which will make the situation much worse than if we did not pass it at all.

I call your attention to a letter which was received by the membership of this House, that is signed by representatives of the following organizations: American Association of University Women, American Dietetic Association, American Home Economics Association, American Nurses Association, Girls Friendly Society of the United States of America, Council of Women for Home Missions, Medical Women's National Association, National Board of the Young Women's Christian Association of the United States of America, National Congress of Parents and Teachers, National Council of Jewish Women, National League of Women Voters, National Women's Trade Union League, Women's Homeopathic Medical Fraternity, and the National Consumers League, all of whom make the statement that they have consistently worked for the past 5 years for an adequate revision of the present Food and Drug Act to insure protection of the public from dangerous and fraudulent products. They also state that the measures which have been under consideration for the past 2 years do not meet entirely with their approval. Then they state sepcifically that unless subsection (f) of section 701 is stricken from the bill—not amended, mind you—that they are opposed to the enactment of this measure.

I do not believe there is a Member of this House who has had a letter or telegram from anyone purporting to represent the consuming public requesting him to vote for this bill.

I think the Committee will agree with me that, with few exceptions, the amendments that have gone into this bill

since it was introduced have not been so much in favor of the consumer as they have been in the protection of the manufacturer.

Briefly, let me call attention to some of the outstanding criticisms against this bill, which are almost unanswerable. Under the bill, a complaint is filed at the place where the law is violated. Then the defendant is given a right, on his own motion and without any cause, to remove his case to any State adjoining the one where the law was violated. In other words, if he does not like the Federal judge in that particular State, he can go out and select one of half a dozen other States in which to try his case. There is no precedent for this kind of procedure anywhere.

There is another provision in this bill which provides that if action has been filed against a defendant, or judgment rendered against him—that he may go into a Federal court and have his case tried again, not in the nature of an appeal but in the nature of a new trial. And, as I read the bill, he may go into almost any Federal court that he chooses. There is no precedent for this procedure. As a matter of fact, the proponents of the bill agree that it is almost an innovation. It would not be so bad if it improved the present situation, but, in my judgment, it simply provides more continuances and longer delays. I regret I have not more time to discuss some of the more detrimental features of this bill.

It has been suggested by some of the Members that amendments could be offered to take care of the most important defects in the bill. The proponents of the measure do not want to accept such amendments for the reason that they do not believe they are necessary. This House should send the bill back to the Committee on Interstate and Foreign Commerce. When the next Congress convenes it can give consideration to a real, honest, constructive, workable bill that will give fair protection to the consumers of this country who will be affected by such legislation. Let us be fair to the manufacturer and the distributor, but at the same time let us be quite sure we give fair and reasonable protection first to the health and happiness of the 130,000,000 consumers to whom we are responsible for this legislation.

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. LEAVY].

Mr. LEAVY. Mr. Chairman, I intend in the brief time I have to devote my remarks largely to the matter of spray residue, that my colleague [Mr. HILL] has heretofore mentioned, and, likewise, in that connection, to discuss this provision for court review. I have no desire, and I do not think there is a Member of Congress on either side of the House who has any desire to in any way weaken the safeguards we have tried to establish for the protection of the general public against poisonous drugs and foods, but we must not forget that an arbitrary Government bureau, however benevolent and kindly it may be, can issue an order or regulation that destroys the very economic existence of tens of thousands of Americans. Now if we do not have a court open, to which we may go for review and relief, then we are left helpless.

Personally I have the highest regard for Dr. Campbell, head of the Pure Food and Drug Department. I know him well, and I respect him, although I differ with him very much in his conclusions and findings on spray tolerance for apples and pears. I am satisfied that we would get a higher degree of efficiency in pure food and drug regulations if that bureau were identified with the Public Health Service, because there is where you find a great group of scientists in this particular field, charged with the duty and responsibility of safeguarding the public health.

Let us see now for a moment what has happened to the apple industry in the United States, and particularly in the State of Washington and in my district. My congressional district produces perhaps more commercial apples than any other district in the United States. My colleague, Congressman HILL, of Washington, has the district that comes second. I have 60,000 people whose livelihood depends upon the production and sale of commercial apples.

This is not a political question. In 1926 a small group of chemists told the Secretary of Agriculture—and that was under a Republican administration—that arsenate of lead, particularly lead, as found upon apples and pears, was poisonous and that the lead found on apples had a cumulative effect when taken into the human system, by eating, and that the result would be deleterious to human beings. The apple men were told that they must reduce it to a certain minute figure. This was all done arbitrarily and with no opportunity for a single person to offer evidence, and without any sufficient scientific facts being found. That regulation was put into effect, and the American apple grower tried to comply with it. The first regulation only required wiping the apples. A few years later they reduced it further and then further and further, and there have been three reductions until now the only way that a grower of fruit can comply with it is to treat the apples in a hydrochloric solution at a temperature of 110 degrees, which almost destroys them. Thus you see a great branch of agriculture rapidly being destroyed by an arbitrary order of one man.

Mr. SHEPPARD. Mr. Chairman, will the gentleman yield?

Mr. LEAVY. If I had additional time I would be very glad to yield.

Now after the apples have been packed and boxed and are ready for shipment, if an inspector finds that the amount of spray carried is beyond the tolerance, which is 0.018 grain per pound of fruit, an infinitesimal part of the apple, the Government agent then requires the entire shipment to be rewashed or else destroyed. And there is no relief to the grower as he is denied the right to question the agent's order, even though it means his financial ruin. We are content and willing to comply with reasonable regulations, but we insist that the regulation fixed is an arbitrary one, without foundation in fact, and, to prove that, a year ago the Food and Drug Administration seized from the Washington Dehydrated Food Co. thousands of dollars' worth of dehydrated apples in St. Louis, and the owner said, "I have complied with your regulations," but the food and drug experts said "no," that he had exceeded the tolerance allowed him in lead, and they libeled those dehydrated apples. He went into the United States District Court for the Eastern District of Missouri and the district court, after a full hearing was had before it without a jury, found there was no basis of fact for the Department regulation on spray residue.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. LEA. Mr. Chairman, I yield the gentleman 1 minute more.

Mr. LEAVY. The Government appealed that case, and I shall place in my remarks the citation of the circuit court of appeals, and it was heard last summer. The eighth circuit court affirmed the lower court and again said that is no basis in fact for this arbitrary regulation. The case I refer to is United States against Washington Dehydrated Food Co. (89 Fed. (2) 606). The man had lost thousands of dollars' worth of his property by destruction by this Government agency and has no remedy, unless Congress passes a special relief act. The fruit industry in the Northwest has lost $30,000,000 in trying to comply with this arbitrary regulation since 1926 when this regulation was put into effect.

Now would you still deny us the right to go into court and test the validity of the act? If there was ever a case where a great group of Americans were being destroyed by a bureau order, it is this arbitrary spray-residue regulation. We have hopes that Secretary Wallace will grant us some relief, but I urge you not to deny us our day in court. [Applause.]

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. COFFEE of Washington. Mr. Chairman, sometime ago the House committee reported its own substitute for the Copeland bill. I am not going to analyze that bill in detail, but just touch upon a few essentials.

When the famous elixir sulfanilamide claimed its 73 victims last fall, the Secretary of Agriculture made certain recommendations to Congress for legislation to prevent the recurrence of such utterly needless and inexcusable tragedies. Especially he recommended that secret remedies be prohibited by requiring that labels disclose fully the composition of drug products. Many foreign countries, he pointed out, now impose this requirement. Many drugs manufactured in the United States are exported to such countries under labels revealing their ingredients. But the same drugs are sold to our own citizens under labels giving no hint of their composition.

Under various State laws the labels of veterinary medicines for hogs, horses, and cattle have to declare their composition. Certainly the human being is entitled to as much consideration as a draft horse or a hog bound for the slaughterhouse. Both the physician and the humble self-doctor have a right to know what medicine they administer.

The House bill, however, does not require the food or drug manufacturer to reveal the ingredients of his product on the label where the consumer can see it. He may instead file his formula with the Secretary of Agriculture, who probably knows it anyhow. When an allergic individual is killed by some secret ingredient in a patent medicine—aspirin, shall we say?—certainly it is going to be a comfort to his widow and orphans to know that at least Mr. Wallace knew of the danger, even if the victim did not.

In the case of cosmetics, where it is just as important for the allergic individual to protect herself against substances to which she is dangerously sensitive, there is no provision whatever for making such ingredients known.

How about the other recommendations of the Secretary to protect the public? The first and most important was license control of new drugs to insure that they will not be distributed until experimental and clinical tests have shown them to be safe for use. My own bill provided for such license control. Following the Secretary's report, my colleague from Kentucky [Mr. CHAPMAN], who has been waging a courageous fight for adequate legislation in this field, introduced a good bill along the line of the Secretary's recommendations.

Yet what do we find in the House bill? A back-handed type of control that puts the real responsibility on the Government. The manufacturer who proposes to put out a new drug product may simply turn over to the Department of Agriculture a sample of his product, together with the labeling he intends to use and what he considers proof of its harmless character when used as he directs. If at the end of 60 days the Secretary of Agriculture has not denied his application, he can go ahead with it.

Physicians, toxicologists, biochemists, and other experts in this field assure me that the length of time required to establish the safety and value of any drug product depends on so many factors that no such easy time limit can be set. The use of arsenicals in the treatment of syphilis required years of testing in the hands of physicians before they were relatively safe. Again, the development of insulin to the point where it was safe for general use, even by doctors, took several years, and many fatalities would undoubtedly have occurred had not preliminary investigations been carried on with great care and caution. Sulfanilamide, about which we hear so much, has been on the market for 2 years, but we still know relatively little about it.

For weeks past representatives of numerous drug interests have been badgering Members of Congress to have even this limited license control replaced by heavier penalties. But how, pray, could a fine of a few thousand dollars restore to life the victims of elixir sulfanilamide? The purpose of this legislation is supposed to be the prevention of such tragedies; not the reprimanding afterward of those responsible for them.

Proper license control is just as important for foods as it is for drugs. When the original Food and Drugs Act was passed back in 1906, its most widely heralded purpose was the elimination of preservatives in foods, like formaldehyde in milk or antiseptics in canned goods. The preservatives of today are more subtle. Now we find a manufacturer proposing to put in his chewing gum the antioxident which prevents the weathering of automobile tires.

We were shocked last fall to find that antifreeze had been used as the carrier for sulfanilamide in the fatal elixir. Yet manufacturers were using this same deadly ingredient in common foods, as we learned when the Food and Drug Administration seized more than 200 shipments of flavoring extracts and other products. I am told that some people even want to use this stuff in frozen eggs.

Note, then, that the House provides for license control of foods only when an epidemic is liable to occur from its contamination.

Shall we have to wait for another hundred deaths before we get proper preventive measures?

S. 5 provides no license control at all for cosmetics.

While S. 5 was still in the Senate, Senator BORAH succeeded in putting through an amendment which would require the trial of seizures in the shipper's home bailiwick. Under the present law, when the Government seizes an illegal shipment and the action is contested, the trial takes place where the goods are found. If a carload of Idaho apples is seized in New York City because it carries a greater residue of lead and arsenic than the Government experts consider safe for human beings, it is up to a jury of consumers in New York to decide for themselves whether or not that seizure was justified. Under the Borah amendment, the question would be determined by a jury of fruit growers and their employees back in Idaho. I need not point the moral.

Even more serious than this reprehensible amendment is a joker which has been slipped into the bill by the House committee. I refer to court review of regulations.

One would think from the Supreme Court decision against some of Secretary Wallace's regulations the other day that the industry already had ample protection against capricious or arbitrary administrative action. We suspect, therefore, that there may be other motives behind this joker. Let us see what they are.

Many of the most important health provisions in the bill are taken care of through regulations. The scientific questions involved are too technical and too complex for Congress to be expected to cope with them in detail. The usual procedure is to leave the details to be filled in by regulations, as has been done in the Interstate Commerce Act and any number of other highly successful statutes. There is nothing radical or revolutionary about the sections in S. 5, which authorize the Secretary of Agriculture to issue a regulation concerning, let us say, the amount of lead and arsenic which will be permitted on apples shipped in interstate commerce. The bill provides that such a regulation shall be issued only on the basis of the best scientific advice and after a public hearing at which there is ample opportunity to present all the evidence on both sides. It is the only rational way of dealing with the problem.

However, the court review joker provides that within 90 days after the regulation has been issued anyone in the country who believes he may be injured by it—from the grower in Idaho or Virginia to the pushcart vendor in New York—may apply to any Federal court for an injunction against it. Should the injunction be granted, it would restrain enforcement in every other jurisdiction in the United States. This is an extraordinary innovation in judicial procedure. There is nothing else like it on the statute books. We may well ask what place such experiments have in vital health legislation.

But suppose the Government should succeed in overturning the injunction in a higher court. Could the regulation still go into effect and the Government proceed in an orderly way in its protection of the public? Not at all. If a substantial portion of the industry—and that means the vociferous minority which can always be counted on to obstruct—proposes to amend or repeal the regulation it is mandatory upon the Secretary, under the language of the bill, to reopen the issue, hold new hearings, and announce either a new regula-

tion or the continuance of the old. As soon as he does so, the industry can once more apply for an injunction. If a single district judge can again be found to issue such an injunction, the regulation will again be rendered ineffective. With more than 100 Federal judges functioning through 82 courts, the odds always favor the injunction seeker.

Should the Government attempt to take any shipper into court for violating a regulation, it is obvious what would happen. His industry would immediately propose the amendment or repeal of the regulation. While hearings were pending, it would be impossible for the trial to proceed.

When you realize that this vicious chain of events would be going on interminably in connection with each and every regulation, you can see how impossible it would be to put into force any section of the law. Of this provision, or its Siamese twin, the Secretary wrote to Representative MAPES:

Frankly, I regard this provision as unfair to the Department, to the public, and to the industries regulated, the majority of which unquestionably would support regulations, based on substantial evidence, wh'ch the Secretary of Agriculture would promulgate. It would constitute a serious impediment to orderly administrative operations. If a bill containing this provision were enacted it would not constitute any material contribution to the public protection that the Department cannot now extend under the existing law. In some respects it would afford even less protection than that afforded by the existing law, which is broad and general in its terms and is to some degree applicable and effective in the fields covered by the sections involved in this discussion. It is the Department's considered judgment that it would be better to continue the old law in effect than to enact S. 5 with this provision.

To his condemnation six Members of the House committee add:

If this bill is enacted into law with section 701 (f), the court-review section, in it, as reported by a majority of the committee, what started out as an effort on the part of the advocates of a more adequate food and drug law to enlarge the scope of the existing law, to fill in the loopholes in it, and to put more teeth into it, will end with having accomplished the directly opposite result and years of earnest effort will have gone for worse than naught.

Certain of the women's organizations, such as the National League of Women Voters, which held its annual convention in St. Louis a few weeks ago, have emphatically served notice on Congress that they will oppose the passage of S. 5 unless this joker is struck out.

Mr. Chairman, under leave to revise and extend my remarks in the RECORD, I include herein an editorial from the St. Louis Post-Dispatch, in its issue of May 2, 1938. This editorial points out the weakness of the pending pure food and drug bill as it has been altered in the House Interstate Commerce Committee.

The editorial is as follows:

VICIOUS JOKER IN THE DRUG BILL

The country has long needed new food and drug legislation to replace the present outmoded and defective act, originally passed in 1906. The original version of the bill now before Congress, drafted after long and thorough study, promised to remedy most of the existing deficiencies and extend proper protection to the public. The bill has been so altered in the House Interstate Commerce Committee, however, as to make it almost valueless.

Punishment of offenders would become virtually impossible under the terms of a new provision, section 701F, that has been inserted in the bill, establishing a wholly unprecedented type of judicial review. This joker provides that any person adversely affected by a food and drug regulation—whether manufacturer or dealer—may apply in his local Federal district court for an injunction forbidding the Secretary of Agriculture, the responsible official, to enforce the law, not in that district alone, but anywhere in the country.

Thus, if one district judge could be found who would issue such an injunction, though the 82 others over the Nation had refused to do so, the Government would be helpless. Even if the injunction were upset by an appellate court, offenders have the privilege, under the bill's terms, of demanding a new hearing, seeking a new injunction, and carrying on the dilatory process indefinitely. The Government, by this plan, is kept on the defensive; it must prove on each occasion that its regulations are fair and just before it can even begin prosecution. Each judge thus is assumed to be a specialist in chemistry, medicine, dietetics, pharmacy, biology, etc., able to determine at once whether a particular regulation is justified. Even more—each judge is empowered, after he issues an injunction, to direct the Secretary of Agriculture to take whatever further action the court may think justice requires.

The joker creates not only an impossible enforcement problem, but it sets up a new concept of the relations among the executive, legislative, and judicial functions of the Government. It is a radical departure from the practices that have always obtained in enforcement of other laws.

It is hence not surprising to find the House committee minority reporting that if section 701F is retained, "what started out as an effort to enlarge the scope of the existing law, to fill in the loopholes and put more teeth into it, will end with having accomplished the directly opposite result, and years of earnest effort will have gone for worse than naught."

Neither is it surprising that Secretary Wallace says: "Its effect would be to hamstring administration so as to amount to a practical nullification of the substantial provisions of the bill."

The journal of the American Medical Association sees justification in "a demand by every consumer of foods and drugs and every user of diagnostic and therapeutic devices that his Representative in Congress use his best efforts to prevent enactment of the bill in the form proposed."

And a speaker for the League of Women Voters, which has made a close study of this legislation throughout its course, said at the national convention here last week: "Under this provision, it might be a generation before any one regulation of major significance would go into effect."

The bill as it stands marks a victory for the minority that has profited by the defects of the present law. It marks a defeat for the consumer and for ethical business. The revised bill has other defects as well, but section 701F is the major flaw which should arouse public concern.

By all means, the committee or the House itself should kill this dangerous provision. Failing that, it would be wise to shelve the matter and wait for action at the next session of Congress. The present law, after all, is merely a weak one. The pending bill with its joker is a vicious measure.

As a further statement to buttress my arguments, I include an article from the May 1938 Consumers Reports, official publication of the Consumers Union of the United States, Inc., a consumers' group of 70,000 members:

S. 5, A GROSS BETRAYAL OF CONSUMER INTERESTS—IT MUST BE DEFEATED

S. 5, the food and drug bill, with a long but not honorable past, has been favorably reported to the House of Representatives by the Committee on Interstate and Foreign Commerce.

As it now stands, the bill might well have been written by the most disreputable elements in the patent medicine and food industries. Surely it is all they could have hoped for even in their most optimistic moments. The bill represents a gross and willful betrayal of consumer interests.

Defects that have characterized previous versions of S. 5 are still present. The power of the Food and Drug Administration to make multiple seizures—one of its few effective weapons up to now—would be restricted under the bill; trials of seizure cases would have to take place in the shipper's own district, which means that verdicts would frequently be handed down by juries sympathetic to the offending manufacturer.

But these weaknesses are mild compared to newly added provisions for an amazing new kind of court review of regulations. These would so impede administrative processes as to make many of the bill's most important sections virtually unenforceable.

To their credit, six members of the House Interstate and Foreign Commerce Committee refused to report favorably on S. 5. (The six: VIRGIL CHAPMAN, of Kentucky; JERRY J. O'CONNELL, of Montana; CARL E. MAPES, of Michigan; CHARLES A. WOLVERTON, of New Jersey; JAMES WOLFENDEN, of Pennsylvania; and PEHR G. HOLMES, of Massachusetts.) Instead, they prepared a minority report, pointing out the vicious character of the court review section of the bill. Secretary Wallace has also made known his belief that this section would so hamstring the administration of the bill as to nullify its effectiveness.

The provisions which have been so ingeniously devised to shield the manufacturers of patent medicines, cosmetics, and foods at the expense of public welfare are, briefly, as follows:

1. Any person—and this includes any retail dealer—who may be adversely affected by any regulation promulgated by the Secretary of Agriculture as provided by the act can, within 90 days of the issuance of such regulation, apply to a district court for an injunction to restrain its enforcement.

What would this mean, for example, if the Secretary should desire to issue a regulation requiring the labels of pain or headache remedies containing acetanilid or its derivatives—all dangerous and habit-forming drugs—to bear a warning against overdosage or habitual use?

There are at least 35 manufacturers of this type of preparation who could seek injunctions in their local courts. Each one of the thousands of drug store owners who make money by the sale of, say, Bromo Seltzer or Anacin, could likewise ask for injunctions. If a single district judge anywhere in the country issued the requested injunction, the regulation could not be enforced anywhere in the United States, even though every other district court in the country had refused to issue an injunction.

The Secretary would then have to hold hearings and announce a new ruling. Upon its announcement, the new ruling would be subject to a fresh crop of injunctions. And this process could go on ad infinitum.

Meanwhile every other regulation promulgated by the Secretary might be simultaneously undergoing the same kind of sabotage. The Food and Drug Administration would be very busy holding hearings, but, as a consumer-protective agency, it would be impotent.

2. Even if the Government could overturn the injunction through the appellate courts, there is a second provision which would make it possible to stall off enforcement. It is mandatory under the bill for the Secretary of Agriculture to hold public hearings whenever any interested industry, or a "substantial portion" of it, submits a proposal to issue, amend, or repeal a regulation. Following such hearings, the regulation would be subject within 90 days to a further deluge of injunctions.

Note that proposals need not be made by the entire industry; only by a "substantial portion" of it. As pointed out in the minority report submitted by Mr. CHAPMAN, in most of the industries affected by the bill there are vociferous minorities strenuously opposed to any type of regulation, sufficient in number to form a "substantial proportion" of the industry.

They could be counted upon to take full advantage of the procedures permitted by the bill and thus prevent indefinitely the enforcement of any regulation detrimental to their business.

The regulations put at the mercy of this fantastic legal merry-go-round would take in those covering food contaminated with disease organisms, where distribution might result in serious epidemics; the use of poisons in food; informative labeling of special foods, including those used by infants and invalids; the listing of dangerous drugs; label warnings against probable misuse of dangerously potent drugs; the establishment of adequate laboratory tests of important official drugs—and many others. To quote the minority report: "These provisions constitute the very heart of any worthy food and drug legislation."

If S. 5 is enacted, it means that the 5-year fight to obtain decent consumer protection under the law will have ended in worse than defeat, for this law gives consumers less protection than they have now.

It means that the already long list of victims of patent medicines and reducing preparations containing dangerous drugs (aminopyrine, dinitrophenol, cinchophen, and acetanilid for example) will grow.

It means in short that enforcemnt of the food and drug law will be controlled by those whose utter unscrupulousness and disregard of public welfare created the need for a new and more stringent law.

The best immediate tactic for consumers is to prevent the bill from being brought up, if possible since there is grave danger that it will be passed once it gets on the floor.

Letters or telegrams should be sent immediately to Mr. JOHN O'CONNOR, chairman of the House Rules Committee, demanding that S. 5 not be brought before the House until public hearings have been held on it, and pointing out that such hearings are essential because of the court review section which nullifies important protective features of the bill.

Congressmen from your own district should be urged to exert pressure on the Rules Committee to prevent the bill from being brought up, and to fight the bill if it is presented. Remember that a Congressman, if he pays attention to anything, pays attention to the mail from his own constituents.

Consumers can and must defeat this bill. And once it is defeated, they must fight for honest consumer-protective legislation, whether it be the Consumers Union food, drug, and cosmetics bill introduced by Congressman JOHN M. COFFEE, or some other bill. Consumers should also keep in mind the names of those Representatives who betrayed their constituents by reporting favorably on this legislative sell-out. The six notable exceptions have been named. Representatives who reported favorably on the bill are:

CLARENCE F. LEA (California), ROBERT CROSSER (Ohio), ALFRED L. BULWINKLE (North Carolina), PAUL H. MALONEY (Louisiana), WILLIAM P. COLE, Jr., (Maryland), SAMUEL B. PETTENGILL (Indiana), EDWARD A. KELLY (Illinois), GEORGE G. SADOWSKI (Michigan), JOHN A. MARTIN (Colorado), EDWARD C. EICHER (Iowa), THOMAS J. O'BRIEN (Illinois), HERRON PEARSON (Tennessee), GEORGE B. KELLY (New York), LYLE H. BOREN (Oklahoma), MARTIN J. KENNEDY (New York), JAMES L. QUINN (Pennsylvania), EDWARD L. O'NEILL (New Jersey), B. CARROLL REECE (Tennessee), JAMES W. WADSWORTH (New York), CHARLES A. HALLECK (Indiana), GARDNER R. WITHROW (Wisconsin).

Mr. WOLVERTON. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DONDERO].

Mr. DONDERO. Mr. Chairman, one of the maladies from which the people of this Nation are suffering is too much government. As a general proposition, I am opposed to any bill presented in this House imposing more restrictions, new regulations, and more burdens upon business and industry, large or small, in the Nation. It so happens that this bill contains a provision which practically closes the door to any man who may fall within its provisions and afoul of the law. He cannot have his day in court or a trial before a jury of his peers, a right which has been guaranteed to him by the Constitution.

I have heard a great deal in the Chamber this afternoon about apples. It so happens that in the congressional district which I have the honor to represent is located Oakland County and western Wayne County, Mich., in which there are some of the largest orchards in the State of Michigan. Some of the finest apples in the country are grown in Oakland County. I have been in those orchards. They are sprayed as often as seven times a season. I have been eating those apples for at least 25 years, so have the people of my county and district. These apples are shipped to many parts of the United States. I have yet to hear of a single case of injury, sickness, or death resulting from the eating of these apples because of poisons from spraying. I concede that the apples grown in my district perhaps do not have the high coloring of those grown in the district of my friend the gentleman from Washington [Mr. HILL]; but I submit and risk the challenge of contradiction of the statement that I now make that nowhere in this Nation are apples produced with superior flavor or even equal flavor to the apples grown in the Seventeenth Congressional District of Michigan. [Applause.]

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield?

Mr. DONDERO. Yes.

Mr. REES of Kansas. The gentleman had no trouble with the Pure Food and Drug Administration regulating the apples in his district, did he?

Mr. DONDERO. Not to my knowledge. I will say on behalf of the business and industry in my district that the general attitude of my people in substance is that they do not want to be burdened or harassed by any more additional Government regulation. More than one man has said to me that it is no longer a pleasure to do business in this country. [Applause.]

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. PHILLIPS].

Mr. PHILLIPS. Mr. Chairman, I take this opportunity, as I did about a year ago, to address the House on the subject of those inhuman monsters who delude suffering American people into believing that they can cure cancer. Any fair-minded person informed on that frightful medical subject knows that unfortunately there is no such things as a cancer cure. On occasion cancer has been, let us say hopefully, cured by X-ray or by radium, we are informed, and by surgery, let us hope; but other than that there is—and I make this statement without fear of contradiction—there is no such thing as a cancer cure. I also make the further statement without fear of contradiction that anybody who advertises a so-called cure of cancer other than through the use of X-ray, radium, or surgery is faking in the worst sense of the word. In my humble estimation such an individual is guilty of inhuman and entirely deplorable practice.

Mr. Chairman, I call to the attention of the House a letter which some of the Members may have received, and particularly I call it to the attention of those Members who did not receive it. This letter came to me in the mails from a Midwestern State. I shall not take time to read the circular, but will just read excerpts from it:

> This company's medicines dissolve tumors.

They advertise another medicine that corrects the blood, and it goes on to say:

> These medicine treatments cure cancer and tumor.

I maintain that this is a base and contemptible falsehood.

Mr. LUCKEY of Nebraska. Mr. Chairman, if the gentleman will yield, I have received a similar circular.

Mr. PHILLIPS. I know many Members did.

Mr. Chairman, the statement I have just read is a base and contemptible falsehood, as I have said. I believe legislation should be so worded that anybody so despicable as to throw out that straw of hope to people suffering from an

incurable disease would go to jail for such debased medical faking.

Mr. WADSWORTH. Will the gentleman yield?

Mr. PHILLIPS. I yield to the gentleman from New York.

Mr. WADSWORTH. The gentleman is aware of the fact that the House has already passed a bill covering that very thing?

Mr. PHILLIPS. I do not think too many bills can be passed to cover the subject.

Mr. WADSWORTH. The bill we passed completely covers the matter. The gentleman does not want it covered more than once.

Mr. PHILLIPS. I have some amendments I intend to introduce further nailing down the proposition that anybody who does advertise a cure for cancer is doing it illegally, because there is no such thing as a cure except by surgery, X-ray, or radium.

Mr. FLETCHER. Will the gentleman yield?

Mr. PHILLIPS. I should like to continue.

Mr. FLETCHER. There is the radio from across the border.

Mr. PHILLIPS. I think American citizens guilty of that ought to have their citizenship taken away from them.

Mr. Chairman, I called the attention of the Members of the House to a situation a year ago and I want to call it to their attention again. I hold in my hand a letter which purports to come from a so-called school of medicine, written to someone in my district, wherein it advises the individual that for a tuition fee of $100 he can take this course. When he graduates he gets some kind of a degree that permits him to practice medicine. Now, listen to this:

> It (the course) takes about 11 weeks, 2 hours every Tuesday evening, making about 22 hours to complete the course, or if you care to you can come down here and spend 2 or 3 days putting in 2 or 3 hours every day. We could cover all of the work in that time. I do not teach any anatomy, physiology, etc. My instructions consist of practical work.

That is all that is necessary to give some kind of a doctor's degree and to let such a so-called graduate practice medicine. In connection with that, this same medical school, or whatever you want to call it, puts out a book for which they charge 50 cents called "Cause and Cure of Cancer."

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. PHILLIPS. Mr. Chairman, in this matter that came through the mail from this so-called school of medicine, the water cure is referred to. It says here in so many words that cancer and many "parasitical conditions" may be cured just by water.

Such advertising by mail or otherwise should be prevented by law.

Mr. Chairman, I wish I had more time to go into this subject. I hope that various amendments which I intend to introduce to strike against fraudulent so-called cancer cures will be agreed to. I intend to introduce them, but if somebody else will introduce them I shall gladly vote to adopt them. If anybody puts out any false advertising or any device, or drug, or anything else that purports to cure cancer, it should be done only in violation of the law and only under severe penalties of the law. Such contemptible individuals purporting to cure cancer should be put in jail if the law is violated.

Mr. Chairman, I yield back the balance of my time.

Mr. MAPES. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. WOLVERTON].

Mr. WOLVERTON. Mr. Chairman, the discussion which has taken place this afternoon with reference to the food and drug bill leaves no doubt it is the desire of this House to pass legislation that will be comprehensive and effective on this vitally important matter. On numerous occasions when measures of this character have been before the House during the last few years I have spoken in favor of the legislation. This afternoon I am just as strongly in favor of such legislation as on previous occasions, with but one exception.

I take it that is the purpose of the proponents of this measure, if we are to judge by their statements, is to perfect and make stronger the present existing provisions of the Food and Drugs Act. This is commendable. A statement of that fact would ordinarily be sufficient to gain support for the bill. However, I wish to emphasize in the closing minutes of this debate the thought that the enforcement provision which has been written into this bill by the Committee on Interstate and Foreign Commerce does not meet with the approval of those who in the past, and over a period of many years, have had charge of the enforcement of the Food and Drugs Act.

The reason it does not meet with their approval is because, in their opinion, it makes the act less effective in enforcement features than the present law. The Committee on Interstate and Foreign Commerce has given this matter considerable attention. I do not agree with the statement made by one of the gentlemen who has spoken this afternoon, when he stated that the committee which has had consideration of the bill has sought from the beginning to make amendments to it that would weaken the bill. Such has not been the case. It is true that amendments to the bill have been made by the committee at the request or suggestion of parties interested in this type of legislation, but in each instance the amendment was made not for the purpose of weakening the bill but for the purpose of clarifying the meaning of the language appearing in the bill. Therefore, as a member of the committee, I cannot agree with the statement that all such amendments were made for the purpose of weakening the bill.

Mr. Chairman, I wish to call the attention of the Members of the House to the fact that many of the outstanding women's organizations of this Nation, and they have probably been the most consistent supporters of this kind of legislation, have very emphatically stated over the signatures of their representatives that unless the section providing for judicial review as now in this bill is stricken out, such organizations must oppose the enactment of the measure. The organizations to which I refer are as follows:

> American Association of University Women, American Dietetic Association, American Home Economics Association, American Nurses Association, Girls Friendly Society of the United States of America, Council of Women for Home Missions, Medical Women's National Association, National Board of the Y. W. C. A. of the United States of America, National Congress of Parents and Teachers, National Council of Jewish Women, National League of Women Voters, National Women's Trade Union League, Women's Homeopathic Medical Fraternity, and National Consumers League.

Is there any justification for the position that has been taken by these worth-while women's organizations? I believe there is. It is to be found in the letter which was written by Secretary Wallace to our colleague the gentleman from Michigan [Mr. MAPES], a member of the Committee on Interstate and Foreign Commerce, in answer to an inquiry from the gentleman with respect to clause (f) of section 701 of the bill. In his letter Mr. Wallace stated:

> I am of the opinion that if section 701 (f) remains in the bill its effect would be to hamstring its administration so as to amount to a practical nullification of the substantial provisions of the bill.

Furthermore, I am advised and believe the fact to be that the Department of Justice has rendered a like opinion in this matter. Unfortunately, it has not appeared in the hearings. Nevertheless, I am confident that it is in existence.

The letter of Secretary Wallace went on to state as follows:

> Frankly, I regard this provision as unfair to the Department, to the public, and to the industries regulated, the majority of which unquestionably would support regulations, based on substantial evidence, which the Secretary of Agriculture would promulgate. It would constitute a serious impediment to orderly administrative operations. If a bill containing this provision were enacted, it would not constitute any material contribution to the public protection that the Department cannot now extend under the existing law. In some respects it would afford even less protection than that afforded by the existing law, which is broad and general in its terms.

It is the Department's considered judgment that it would be better to continue the old law in effect than to enact S. 5 with this provision.

If there is to be exploration into new fields of administrative law, may I urge that it not be in the field of vitally important public health legislation.

That letter was signed by Secretary Wallace as Secretary of Agriculture and whose Department has jurisdiction of the enforcement of the Food and Drug Act.

In the moment that remains I want to emphasize the fact that those who have had charge of the administration of this all-important law over a period of years have stated it to be their considered judgment that the new provision in in the pending bill providing the procedure for enforcement is not as effective as the enforcement provisions now in the present law, and yet this bill is being offered for the purpose of making the present law stronger and more effective. What good does it do if we write into this bill new provisions that will strengthen in some particulars the present Food and Drug Act, if at the same time we withdraw the means of effective prosecution that is now in the law and in its stead place something that is weaker?

The members of the committee who have signed the minority report have done so not because of any opposition to legislation of this character. The fact they have signed a minority report that provides a stronger system of prosecution for violations of the act testifies to their desire to have effective legislation. It is an evidence of their desire to give to this House what we believe the House is anxious to have, namely, legislation that is not only comprehensive but a bill that can be enforced effectively in the interest of the people of this Nation whom it is designed to serve. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. Under the rule for the consideration of this measure, the committee amendment will be read for amendment as an original bill.

The Clerk read as follows:

Be it enacted, etc.

CHAPTER I—SHORT TITLE

SECTION 1. This act may be cited as the Federal Food, Drug, and Cosmetic Act.

CHAPTER II—DEFINITIONS

SEC. 201. For the purposes of this act—

(a) The term "Territory" means any Territory or possession of the United States, including the District of Columbia and excluding the Canal Zone.

(b) The term "interstate commerce" means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(c) The term "department" means the Department of Agriculture of the United States.

(d) The term "Secretary" means the Secretary of Agriculture.

(e) The term "person" includes individual, partnership, corporation, and association.

(f) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(g) The term "drug" means (1) articles recognized in the official United States Pharmacopœia, official Homœopathic Pharmacopœia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(h) The term "device" (except when used in paragraph (n) of this section and in sections 301 (i), 403 (f), 502 (c), and 602 (c)) means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

(i) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(j) The term "official compendium" means the official United States Pharmacopœia, official Homœopathic Pharmacopœia of the United States, official National Formulary, or any supplement to any of them.

(k) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper; if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(l) The term "immediate container" does not include package liners.

(m) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.

(n) If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual.

(o) The representation of a drug, in its labeling, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

(p) The term "new drug" means—

(1) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this act it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, as become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

CHAPTER III—PROHIBITED ACTS AND PENALTIES

PROHIBITED ACTS

SEC. 301. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce.

(c) The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The introduction or delivery for introduction into interstate commerce of any article in violation of section 404 or 505.

(e) The refusal to permit access to or copying of any record as required by section 703.

(f) The refusal to permit entry or inspection as authorized by section 704.

(g) The manufacture within any territory of any food, drug, device, or cosmetic that is adulterated or misbranded.

(h) The giving of a guaranty or undertaking referred to in section 303 (c) (2), which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 303 (c) (3), which guaranty or undertaking is false.

(i) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any certificate authorized under the provisions of section 505, or any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of section 404, 406 (b), 504, or 604.

(j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this act, any information acquired under authority of section 404, 505, or 704 concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale after shipment in interstate commerce and results in such article being misbranded.

(l) The using, on the labeling of any drug or in any advertising relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 505, or that such drug complies with the provisions of such section.

Mr. PHILLIPS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIPS: On page 48, line 3, after the period, insert "or advertising matter concerning any so-called cancer cure or any drug or device to be used in connection therewith."

Mr. PHILLIPS. Mr. Chairman, I shall not take much of the time of the House because most of the Members on the floor heard the remarks I made a few moments ago on the subject of so-called fake cancer cures. I repeat, there is no such thing as a cancer cure or a device to cure cancer. The only agencies that may be able to suspend the action of the cancerous growth are surgery, X-ray, or radium, and that is all there is to it. Sometimes these effect a so-called cure—only these. Anybody who advertises anything else as a cancer cure is a contemptible faker. In plain English, I propose under this amendment to make it impossible to advertise in interstate commerce any of these fake cancer cures or devices.

Mr. Chairman, I hope my amendment will be agreed to.

Mr. LEA. Mr. Chairman, we have taken care of the advertising feature in the Federal Trade Commission Act which we passed some time ago and under which a man guilty of what the gentleman from Connecticut has just described, would be subject to prosecution. In addition to that, this bill provides for the prosecution of therapeutic claims that are false, such as the gentleman has suggested in connection with the label on the medicine, or if it is in the literature accompanying the drug. So we have taken care of that situation very well already, I believe.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. PHILLIPS].

The amendment was rejected.

The Clerk read as follows:

INJUNCTION PROCEEDINGS

SEC. 302. (a) The district courts of the United States and the United States courts of the Territories shall have jurisdiction, for cause shown, and subject to the provisions of section 17 (relating to notice to opposite party) of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended (U. S. C., 1934 ed., title 28, sec. 381), to restrain violations of section 301 (a) to (d), inclusive.

(b) In case of violation of an injunction or restraining order issued under this section, which also constitutes a violation of this act, trial shall be by the court, or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of section 22 of such act of October 15, 1914, as amended (U. S. C., 1934 ed., title 28, sec. 387).

Mr. VOORHIS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, if the gentlewoman from New York [Mrs. O'DAY] were here today and if she were not compelled by illness to be absent, she would be one of those most interested and most active in discussing this bill.

In view of the fact she is ill and unable to be here and that she has prepared a very forceful and excellent statement on this bill, I ask unanimous consent that she may be given permission to extend her remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. O'DAY. Mr. Chairman, over a year after the food, drug, and cosmetic bill passed the Senate it is reported to the House by the Committee on Interstate and Foreign Commerce, and reported with a joker in it that will defeat its purpose. This joker is found in section 701 (f), which provides a new and disastrous method for judicial review of administrative regulations.

The St. Louis Post-Dispatch, in an editorial on Monday, May 2, aptly diagnosed the effect of this method of judicial review in the following words:

The bill as it stands marks a victory for the minority that has profited by the defects of the present law. It marks a defeat for the consumer and for ethical business. The revised bill has other defects as well, but section 701 (f) is the major flaw which should arouse public concern.

By all means, the committee or the House itself should kill this dangerous provision. Failing that, it would be wise to shelve the matter and wait for action at the next session of Congress. The present law, after all, is merely a weak one. The pending bill, with its joker, is a vicious measure.

The editorial quotes various opinions, including the minority report of the committee, Secretary Wallace, and the Journal of the American Medical Association, which sees justification in a demand by every consumer of foods, drugs, and every user of diagnostic and therapeutic devices that his Representative in Congress use his best efforts to prevent enactment of the bill in the form proposed.

The editorial also quotes a spokesman for the National League of Women Voters, who said at the recent national convention of the organization in St. Louis that—

It might be a generation before any one regulation of major significance would go into effect.

Fourteen national organizations seek defeat of this bill unless the judicial review section is eliminated. Each Member of the House has received a communication stating:

The undersigned organizations have worked consistently for the past 5 years for an adequate revision of the present Food and Drug Act to insure protection of the public from dangerous and fraudulent products. No bill which has been before the Congress in the past 2 years has entirely met the standards for such legislation which we as consumers consider reasonable; but as long as proposed legislation offered measurable improvement over the present act the undersigned organizations have accepted modifications.

S. 5 as now reported to the House contains a provision, section 701 (f), which is not only a radical departure from existing administrative law but would prevent quick and effective action against dangerous and fraudulent products.

We are convinced that this proposal for judicial review of regulations more than offsets the improvements over the present law contained in the bill. Unless this section providing for judicial review is struck out, the undersigned organizations must oppose the enactment of the measure.

Signed by representatives of:
American Association of University Women.
American Dietetic Association.
American Home Economics Association.
American Nurses' Association.
Girls' Friendly Society of the U. S. A.
Council of Women for Home Missions.
Medical Women's National Association.
National Board of the Y. W. C. A. of the U. S. A.
National Congress of Parents and Teachers.
National Council of Jewish Women.
National League of Women Voters.
National Women's Trade-Union League.
Women's Homeopathic Medical Fraternity.
National Consumers' League.

These organizations have been reasonable in their demands, and have, as they say in their letter, accepted modifications in the bills as long as measurable additional protection to the consumer was offered. That they have now taken the position that the present law, weak as it is, offers more protection than would be possible under the bill as proposed should carry weight with Members of the House.

The need for new legislation in the consumers' interest is generally acknowledged. We were told that when advertising control was taken from this bill and made a part of the function of the Federal Trade Commission that industry opposition would cease, and yet we now have a measure before us entirely unacceptable to consumer groups. Certainly the measure should be defeated in its present form. But after 5 years of consideration, failure to pass a measure giving adequate protection to the consumer will be an indictment of the Congress.

The Clerk read as follows:

PENALTIES

SEC. 303. (a) Any person who violates any of the provisions of section 301 (a) to (l), inclusive, shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than 1 year, or a fine of not more than $1,000, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final such person shall be subject to imprisonment for not more than

3 years, or a fine of not more than $10,000, or both such imprisonment and fine.

(b) Notwithstanding the provisions of subsection (a) of this section, in case of a violation of any of the provisions of section 301 (a) to (l), inclusive, with intent to defraud or mislead, the penalty shall be imprisonment for not more than 3 years, or a fine of not more than $10,000, or both such imprisonment and fine.

(c) No person shall be subject to the penalties of subsection (a) of this section, (1) for having received in interstate commerce any article and delivered it or proffered delivery of it, if such delivery or proffer was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Secretary the name and address of the person from whom he purchased or received such article and copies of all documents, if any there be, pertaining to the delivery of the article to him; or (2) for having violated section 301 (a) or (d), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect, in case of an alleged violation of section 301 (a), that such article is not adulterated or misbranded, within the meaning of this act, designating this act, or to the effect, in case of an alleged violation of section 301 (d), that such article is not an article which may not, under the provisions of section 404 or 505, be introduced into interstate commerce; or (3) for having violated section 301 (a), where the violation exists because the article is adulterated by reason of containing a coal-tar color not from a batch certified in accordance with regulations promulgated by the Secretary under this act, if such person establishes a guaranty or undertaking signed by, and containing the name and address of, the manufacturer of the coal-tar color, to the effect that such color was from a batch certified in accordance with the applicable regulations promulgated by the Secretary under this act.

SEIZURE

SEC. 304. (a) Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce, or which may not, under the provisions of section 404 or 505, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: *Provided, however,* That no libel for condemnation shall be instituted under this act, for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this act based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply (1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this act, or (2) when the Secretary has probable cause to believe that the misbranded article is dangerous to health or that the labeling of the misbranded article is, in a material respect, false or fraudulent; and in any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district in a State contiguous to the State of the claimant's principal place of business, such district to be agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, to be designated by the court to which the application was made.

(b) The article shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, are pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, may be consolidated for trial by order of such court, and tried in (1) any district, selected by the claimant, where one of such proceedings is pending; or (2) a district in a State contiguous to the State of the claimant's principal place of business, such district to be agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, to be designated by the court to which such application was made. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(c) The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized, and as regards fresh fruits or fresh vegetables, a true copy of the analysis on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(d) Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such article shall not be sold under such decree contrary to the provisions of this act or the laws of the jurisdiction in which sold: *Provided,* That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this act or the laws of any State or Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this act under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. Any article condemned by reason of its being an article which may not, under section 404 or 505, be introduced into interstate commerce, shall be disposed of by destruction.

(e) When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

(f) In the case of removal for trial of any case as provided by subsection (a) or (b)—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case was removed shall have the powers and be subject to the duties, for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

Mr. REES of Kansas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES of Kansas: On page 53, line 14, after the word "fraudulent", strike out the semicolon, insert a period, and strike out all of the remainder of line 14 and all of the remainder of this paragraph, down to and including all of line 23.

Mr. REES of Kansas. Mr. Chairman, this section provides that the action shall be brought in any district court of the United States in the jurisdiction within which the article is found. I am striking out the proviso that says that "in any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district in a State contiguous to the State of the claimant's principal place of business."

It seems to me we are departing from the rules of procedure to permit this removal without cause shown just because the plaintiff wants to move his case to some other jurisdiction. In this event all he has to do is to file a motion and say he wants to go to some other court in some other State and then have a trial in some adjoining State.

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. REES of Kansas. I yield.

Mr. HOUSTON. Does the gentleman mean that if such an action were brought in the District Court of Kansas, for example, and the claimant wanted to move it back to Detroit or some other place, he could do so under the provisions of the bill?

Mr. REES of Kansas. Yes; if the case were brought in Kansas he could go to Missouri or some other State.

Mr. HOUSTON. The gentleman's amendment would cause the action to be tried in the district where it originated.

Mr. REES of Kansas. Yes; it seems to me there is no occasion for the claimant to have this particular privilege granted to him. He ought to have his case tried in the jurisdiction where the action arises, just as would be the case in any other action.

Mr. Chairman, I think this amendment ought to be adopted.

Mr. LEA. Mr. Chairman, do I understand the gentleman from Kansas believes that removal ought not to be permitted to the State where the claimant resides?

Mr. REES of Kansas. The bill says the jurisdiction within which the article is found.

Mr. LEA. Does the gentleman's amendment propose to have the trial where the article is found or where the defendant resides?

Mr. REES of Kansas. I would have no objection if the action were brought where the person resides, but it seems to me there is no occasion to provide here that simply because he is not satisfied, for instance, with the court in

Kansas, on his own motion go over to Missouri, Nebraska, Colorado, or Oklahoma because he thinks there is a more favorable court there. In all other instances, if you want your case removed, you have to make some showing that the application is made by reason of the court being unfair to you or that your rights are jeopardized so that you may secure a change of venue.

Mr. LEA. Mr. Chairman, this provision is a little unusual. Seizure is made upon the theory that it is a proceeding in rem, similar to an action in admiralty. It is the article seized that gives the jurisdiction, instead of the person. In order to give that person a reasonable concession of convenience, the bill provides for removal of the case not to his State, but to a contiguous State. Ordinarily where removal is permitted, it would be to the residence of the claimant, the interested party, but this section denies him that privilege, and sends him to another State, and in case the parties do not agree by stipulation on any particular court; that is, if the Government does not agree with him as to what court it shall be then the court selects the court where the trial shall be held. Nobody raised any objection upon the theory that the gentleman from Kansas raises.

Everybody concedes that it is a fair thing to give him a trial in the neighborhood where he lives. The Senate provided that he is entitled to a trial in the district where he lives, and the House committee has denied him that privilege, and requires him to go to a contiguous State. So I think this provision should be no less liberal than it is. If the seizure is made in New York, should a man in California be required to come to New York? The bill is written so that the California man may have to go to Oregon or Arizona for trial. I do not see any excuse for bringing a man across the continent for trial when the case can be tried with equal facility by the Government in a contiguous State.

Mr. HOUSTON. Then as I understand it, under the provisions of the bill, it is providing for what might be called neutral ground.

Mr. LEA. That is the object. I might say that I did not approve the position of the committee with much enthusiasm. But the position was that the claimant is entitled to a neutral court, and it might be disadvantageous for the Government to go into the State where the claimant resided, where the influence perhaps in favor of the manufacturing concern might make it impossible for the Government to get a fair trial. That is the theory of this section. It is not such as the gentleman interprets it at all.

Mr. LEAVY. Mr. Chairman, will the gentleman yield?

Mr. LEA. Yes.

Mr. LEAVY. In addition to what the gentleman said, does not the section in fact rather provide that where the Government has had two or more libels within the territory of the United States against the same owner, then the provision for trial in one court shall be final.

Mr. LEA. The bill provides for consolidation. That is just a matter of efficiency of administration.

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield?

Mr. LEA. Yes.

Mr. REES of Kansas. This bill provides that the claimant is the one who can remove the case.

Mr. LEA. Yes.

Mr. REES of Kansas. Can the gentleman give any reason why a claimant or anybody else should ask for the removal of a case without giving some good reason for it, just as he would have to do in case of a change of venue?

Mr. LEA. The ordinary reason would be that the party in interest would have a right to a trial where he lives, but being a proceeding in rem, he does not have that right, but the committee tried to a degree at least to give him that kind of justice that we would give in a personal action, and permitted the trial to be moved to a contiguous State.

Mr. REES of Kansas. So the bill gives a manufacturer half a dozen places to go.

Mr. LEA. It is to a contiguous State. He does not have the right to take it to his own State at all.

Mr. HOFFMAN. What is the objection to an amendment—on I think it is page 53—after the word "jurisdiction" in line 1, which would permit, for instance, an apple grower in California whose fruit is seized in New York or Chicago, to have a trial in a district court in California? Why make him come clear across the continent? He would not be able to do that in a financial way.

Mr. LEA. The committee did not grant him that much privilege, but the committee does give him the privilege of going to a State contiguous to his own State.

Mr. HOFFMAN. But in that case he still has to go outside. In the case of a small grower, the financial burden might be too great so that he could not get into court at all. Does the gentleman not think the Government would get a fair trial in the district court in California?

Mr. LEA. I do. I recognize the point the gentleman makes, and there is a lot of merit in it. What we have done is to grant a degree of liberality in favor of the claimant, but I think that does no injustice to the Government.

Mr. HOFFMAN. Do you fix it so that a man who is accused of an offense can get into court at all?

Mr. LEA. Yes; but not with the facility that is desirable.

The CHAIRMAN. The time of the gentleman from California has expired. All time has expired. The question is on the amendment offered by the gentleman from Kansas.

The amendment was rejected.

The Clerk read as follows:

HEARING BEFORE REPORT OF CRIMINAL VIOLATION

SEC. 305. Before any violation of this act is reported to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

Mr. TOWEY. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. TOWEY: Page 56, section 305, lines 20 to 25, inclusive, strike out all of section 305.

Mr. TOWEY. Mr. Chairman, the remarks which I shall make in connection with this proposed amendment and the bill under consideration represent not only my own views but the expressed views of the Medical Society of the State of New Jersey, determined by their formal action from time to time. The Medical Society consists of 3,600 members and through their legislative delegates have advised me that they are in opposition to S. 5, for they feel after study of the problem that the present Wiley Act if properly and adequately enforced would give the necessary protection to the health of the people of America in whom they are primarily interested rather than the drug manufacturers. The proposed reason for this bill is that it is to cover by regulation cosmetics and therapeutic instrumentalities. These good doctors feel that adequate provisions could be put in the Wiley Act to include these matters. They feel that the only criticism that can be directed against the Wiley Act is not its provisions but the fact that those who should have enforced its provisions have not a hundred-percent record or anything approaching that figure in that respect. As the distinguished gentleman from California, the chairman of the committee in charge of the legislation, stated in his opening remarks to the Committee today that this bill in the field of food and drug control represented a development of administrative law such as has become very noticeable in legislation during recent years, rather than an attempt to enforce this type of act through the courts. The philosophy behind this type of administrative law is that Congress delegates its power to the administrator and the administrator makes the rules and regulations for its enforcement and not only should he have adequate power to meet the objectives desired but he should have unlimited discretion. There are some who still believe that in legislation of this character involving the health and welfare of 130,000,000 people that the criminal and judicial arm of the Government should have a greater part in its functions rather than an administrative officer

with wide discretion and amenable only to the promptings of his own conscience. With reference to the specific section for which I have proposed the amendment under consideration, I wanted to have the opportunity to ask the chairman of the committee to explain its meaning to me but through lack of time he was unable to do so in his opening statement. I then asked the ranking minority member of the committee but unfortunately he, too, said that time was not sufficient for him to give me his views on what is exactly meant by section 305 of this bill. As I read the amendment I come to the conclusion, and a nonescapable one, that we are creating under the provisions of this section a brand-new function for an administrative officer. We are in effect creating an administrative court and giving to an administrative officer the right to conduct a hearing and then to determine in his own judgment as to whether or not he ought to turn the violator of the act over to the criminal authorities for punishment, or to let him go free or with a slap on the wrist in the form of a warning. This is something new in American jurisprudence and it is something which I wish that this Committee will not set a precedent for, and that this section should be stricken out entirely and that when a crime has been committed involving the health and welfare of the people of our country the Secretary should have only one duty and that is to send this man to a proper tribunal of justice to determine whether or not he has been guilty of the crime charged, and not to enact a spectacle of having the administrative officer act as prosecutor and the judge of the same case, and who is probably more interested in having his efficiency record read 100 percent than interested in what justice really means. I believe it is our obligation and duty, Mr. Chairman, to eliminate this section and I ask the support of the members of the committee for my amendment.

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I call the attention of the House to the fact that this section does not require the accused to appear before the Secretary. It is a provision put in for the benefit of the accused so that before his case is reported by the Secretary of Agriculture to the Department of Justice he will have this opportunity to appear and show cause why he thinks it should not be prosecuted. He can remain away if he wants to, and there is no offense on his part in so doing.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. LEA. In just a minute.

This section was approved by a representative of the Department of Agriculture. They thought it desirable for the handling of these cases. In the first place, you give the accused the opportunity to know what the offense charged against him is; and there are many minor technical violations that should never be brought to the Department of Justice.

This bill is framed on the theory, with the approval of the Department of Agriculture, of giving this opportunity to minor offenders. We even go so far as to say that where the Secretary of Agriculture reaches a conclusion that the public interest does not require the prosecution that he shall not report it to the Attorney General. So this is a provision for the benefit of the accused and is framed with the idea of disposing of a good many minor cases that do not justify criminal prosecution.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. TOWEY. Does the gentleman find any provision in the bill that limits the provision to this section to minor violations? Does it not say "any criminal prosecution?"

Mr. LEA. Not this section. This section applies to all crimes, but a subsequent section provides for the minor violations.

Mr. TOWEY. The gentleman means the section that follows?

Mr. LEA. Yes; the next section.

Mr. TOWEY. That does not provide anything with reference to exemption.

Mr. LEA. The gentleman is correct in that. This section we are dealing with, of course, refers to his opportunity to be heard before the charge is made. The second section grants him a hearing and gives the Secretary the authority to refrain from reporting it to the Department of Justice even though the respondent is technically guilty.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. TOWEY. The gentleman, of course, is one of our outstanding criminal lawyers, and he knows that is not the practice in criminal law.

When the Department is prepared to send the complaint to the United States district attorney, its duty is ended. Under the gentleman's theory this man could come in and argue before an administrative official of the Department whether or not a crime had been committed; then it would be determined by this administrative officer whether or not that crime had been committed. If he decided no crime had been committed, then the enforcement of the criminal arm of our Government has been thwarted.

Mr. LEA. From the standpoint of technical criminal law, the gentleman is correct. We are not without precedent for this provision, however. In the original Federal Trade Act passed by the Congress, we authorized them, in cases where they thought it was in the public interest not to proceed, to exercise discretion in making a charge, even though technically a charge could be made.

I call attention, however, to the fact that the mere circumstance that the Secretary does not report the offense does not excuse the accused from prosecution. The Attorney General may proceed in case he desires to do so.

Mr. TOWEY. How would he get the information if he did not get it from an administrative officer who had charge of the case?

Mr. LEA. He might get the information from an administrative officer or from any other source. If he sees fit to proceed he may do so.

Mr. TOWEY. I call the gentleman's attention to the fact that these violations are reported to a central department, and this central bureau has charge of them. It is familiar with the facts and it knows whether the law has been violated or not. I say it is their duty under this act or it should be their duty to report that fact to the proper United States authorities.

[Here the gavel fell.]

Mr. CLASON. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. LEA] may proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CLASON. Will the gentleman yield?

Mr. LEA. I yield to the gentleman from Massachusetts.

Mr. CLASON. In speaking of this particular section the gentleman stated that the Department of Agriculture sees no reason why this section should not be in there. I would like to know whether or not the Department of Justice has given any opinion as to this bill or any section thereof?

Mr. LEA. So far as I recall, I have no suggestion from the Department of Justice as to this particular section.

Mr. CLASON. Have you as to any section of the bill?

Mr. LEA. I did as to certain sections.

Mr. CLASON. Is that opinion of the Department of Justice in the report of the hearings before the committee?

Mr. LEA. No. It was in a conversation I had with a Department of Justice official.

Mr. CLASON. The gentleman never received any written report?

Mr. LEA. We may have had some report when the bill was originally drafted, but it did not concern this particular question at any rate.

Mr. CLASON. The Department of Justice has never been called upon to give any opinion in regard to this section?

Mr. LEA. I do not recall whether the Department of Justice appeared at the hearings or not. It may have had its representative there. I cannot say. Perhaps some other Member could give us the information.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. TOWEY].

The amendment was rejected.

The Clerk read as follows:

REPORT OF MINOR VIOLATIONS

SEC. 306. Nothing in this act shall be construed as requiring the Secretary to report for prosecution, or for the institution of libel or injunction proceedings, minor violations of this act whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

Mr. TOWEY. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. TOWEY: Page 57, line 3, after the word "Secretary", strike out the words "to report for prosecution" and insert "provided no more than one warning shall be given to any person."

Mr. TOWEY. Mr. Chairman, this is an amendment more or less in the nature of a supplementary amendment to one offered by me to the preceding section. Under this section we have the spectacle of the administrative officer in his sole and uncontrolled discretion determining what is a minor violation of the act. There is no legislative standard set up in the act and there is no definition in the act as to what constitutes a minor violation. What might be a minor violation in one case could very readily be a major violation in another case. Under the provisions of this section, I ask the members of the committee to at least eliminate from the discretion of the administrative officer under this act, actions in which the criminal element may be involved, and retain them only so far as the libel and injunction preceedings may be concerned, although it is my wish that we were able to strike out this entire section. What is a crime should be the function of the courts of the United States, determined and maintained by the doctrines of stare decisis and not by the vagaries of the mental equipment of each new administrative officer who may come into being with the administration at the time in power.

In connection with this matter I am reliably informed that the very same company that produced and sold the elixir product that involved the death of some 90 people a short time ago was the very same company that 2 or 3 years ago also sent out an elixir dangerous in character, and their only punishment was that their goods were libeled. Perhaps if this law had been in effect at that time they would not have reached the libel stage, or a Secretary could have very well said, "This is just a minor violation." This type of legislation is not only dangerous but it is wrong in principle. I believe that Congress has the power, the intelligence, and the ability to determine what is or what is not a violation of the act, and if we have not that ability we ought to stop legislating, or at least should not leave it to some administrative officer in his sole discretion, with the various influences and pressures that may be put upon him to do anything that at the moment he may care to do and which circumstances and expediency may direct that he should do, and from whose ruling and determination of minor violations there is no court of appeals except the undertaker who could be very readily informed that here is the result of a determination of an administrative officer of what constitutes a minor violation of the Food and Drug Act.

Mr. Chairman, the reasons I have stated both on this amendment and the preceding amendment are serious both in their nature and in their effect. I am not standing in the House to hear myself talk. I am speaking in the language and voicing the thoughts of the 3,600 members of the medical society of my State, who have analyzed this bill and who wish that Congress would put the necessary safeguards to protect the health of our people.

You heard the distinguished gentleman from California, the chairman of the committee, say in discussing the preceding section that a man had a right to come in before the Secretary and plead his so-called criminal case. We are not interested in the manufacturer, we are interested in the human beings, the so-called guinea pigs on whom these things are tried out. It is our duty and our obligation to try to protect those people and never mind protecting the manufacturer in connection with the new court which has been established in America, the court in the office of the Secretary of Agriculture.

Mr. Chairman, I ask that this amendment be agreed to.

Mr. LEA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would concede the purely technical justification for what the gentleman states, but on the other hand we must remember there will be and doubtless are now thousands of technical violations of the food and drug law which cannot as a practical matter be prosecuted. To prosecute people for purely technical violations would lead to such a congestion of the courts as would break down the prosecution. The hardship that would be involved would make the enforcement of the law impracticable. This provision relates purely to a matter preliminary to prosecution. Although the Secretary fails to report, there is no reason why the grand jury, if it sees fit, should not indict the accused. We do give the Secretary this more or less broad discretion to avoid bringing in an excessive number of minor violations.

I believe from a practical standpoint, as it works out, it will add to the respect for the enforcement of the law not to stigmatize it by excessive zeal in these minor cases.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield to the gentleman from New Jersey.

Mr. TOWEY. The Wiley Act has been in effect since 1906. The same minor violations have been going on and there is no provision in the law, that I know of, whereby the Secretary can discontinue the prosecution of these minor violations. That law has been in effect now some 30 years.

Mr. LEA. By very force of necessity the Department is not reporting cases of this type. It is just impracticable to do it. Here we draft a law that candidly recognizes the practical situation. That is the way it appears to me.

Mr. TOWEY. If there is a serious violation there is nothing for the district attorney to do except hope that he may find out this information and start his prosecution?

Mr. LEA. He has that right regardless of the nonaction of the Secretary.

Mr. PACE. Mr. Chairman, I move to strike out the last word.

Does not the gentleman from California believe that under such a broad discretion, in establishing a precedent of this character in the courts of the United States, there should certainly be some definition or some limitation of the word "minor"? The gentleman must bear in mind that here in the city of Washington a police officer is not allowed to settle even a minor traffic violation. Certainly such violations are more numerous than would be violations under this act; yet here you place in the hands of one man and his agents, with no limitation and with no definition, the authority to say whether or not a prosecution shall be had. The gentleman cited a moment ago as a precedent something that was done in the Interstate Commerce Act, and in a few months we will have another bill here and this act will be cited as a precedent.

I am sure the gentleman wishes to preserve American justice and, above everything else, that characteristic American quality of fairness and impartiality. Does not the gentleman believe there should be some definition or some limitation on this broad discretion rather than using merely the word "minor"?

Mr. LEA. Of course, in this particular case we are dealing with the duties of a purely administrative official, and this is far different from dealing with a judicial officer, even

somewhat different from dealing with the Department of Justice. However, there is nothing more common in the practice of criminal law than for the prosecuting attorney to exercise his judgment as to the cases he will prosecute. I believe probably the gentleman has been a prosecuting attorney. Am I correct in that statement?

Mr. PACE. No; I have not been.

Mr. LEA. Anyway, there is nothing more common in the administration of justice than the exercise of the discretion of a prosecuting attorney where he knows it is impracticable to prosecute purely technical violations of the law. This is a candid recognition of that practical situation, and I believe it will work for the betterment of law enforcement. This is the viewpoint of the Food and Drug Administration itself, as it has been transmitted to me.

Mr. TOWEY. Mr. Chairman, will the gentleman yield?

Mr. PACE. I yield to the gentleman from New Jersey.

Mr. TOWEY. I should like to ask a question of the chairman of the committee. What has the gentleman to say about the repeated warnings and as to whether one warning is sufficient or whether a man can keep on continually violating this statute without finding himself at any time in greater danger than of receiving just a warning?

Mr. LEA. I believe he should be prosecuted, and that is what probably would take place. A repetition in the face of a warning would show animus in the case to fully justify prosecution.

Mr. TOWEY. Does the gentleman object to that part of my amendment which would stop a man from proceeding after receiving one warning?

Mr. LEA. Mr. Chairman, may I have the amendment again reported?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TOWEY: On page 57, in line 3, after the word "Secretary", strike out the words "to report for prosecution, or"; and in line 6, after the word "warning", the following: "provided, no more than one warning shall be given to any person."

Mr. LEA. I can see no objection to that last provision.

Mr. TOWEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TOWEY. Can I offer another amendment to this section just embodying the last part of my previous amendment?

The CHAIRMAN. It will be necessary to dispose of the pending amendment before any other amendment can be considered.

Mr. TOWEY. I shall offer a new amendment after the one now pending is disposed of.

Mr. CLASON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, after reading these two sections, as a former prosecuting attorney, I am certainly somewhat at a loss to find out where there are any teeth left in this bill at all. It seems to me it leaves the prosecuting attorney whose sole duty is to take care of criminal prosecutions, in a position where even if he knows a crime has been committed he must wait until the Secretary of Agriculture acts. To me this seems like a ridiculous situation, particularly if a serious crime, apparently, has been committed. This section 305 states that the person against whom such a proceeding is contemplated shall be given a chance to present his views, and so forth. Now, suppose somebody has been killed or, perhaps, poisoned, apparently from some sort of mixture, is the district attorney going to wait because of the terms of this section until after the Secretary of Agriculture has called someone in from the West, perhaps, to pass upon the crime? To me this seems absolutely impossible.

Mr. LEA. Mr. Chairman, will the gentleman yield?

Mr. CLASON. Yes.

Mr. LEA. The gentleman realizes from this section that it is not necessary for the prosecuting attorney to await a report by the Department of Agriculture. He can proceed immediately if he wants to.

Mr. CLASON. What is he going to be faced with?

Mr. LEA. There is no string on the prosecution or on the indictment of such men. This simply refers to the administrative duty of the Secretary.

Mr. CLASON. And here is what the prosecuting attorney is going to be up against. He tries such a man, and the first question asked of the witness is, "Did this man have a chance to set out his position before the Department of Agriculture; has he been given all the rights of a free American citizen; are you not picking on him?", and all that sort of thing.

I do not believe we want to go around tying the hands of district attorneys and prosecuting attorneys by any more regulations of the Department of Agriculture. It seems to me this committee should have gotten in touch with the Department of Justice and found out how the people who are going to try the cases want these sections written. Who cares what the Secretary of Agriculture has to say with regard to a criminal case any more than you would for any other important official in some other branch of the Government? Why not give the Department of Justice a chance to be heard, and, apparently, no opinion in writing was asked of them. We are told about hearings 4 years ago and 3 years ago and 2 years ago. It seems to me we ought to have this brought up to date and have the Department of Justice, either through Mr. Cummings or through some other high officials of that Department, tell us what they think of these two sections.

Mr. LEA. Mr. Chairman, will the gentleman yield?

Mr. CLASON. I yield.

Mr. LEA. The law speaks for itself, and there are no strings on the Department of Justice or on the grand jury. They can proceed whenever they like.

Mr. CLASON. I am sorry, but I must disagree with the gentleman because I think you are hamstringing any prosecuting attorney when you make it necessary to appear at a trial that he waited for the Secretary of Agriculture or some of his minions to report.

With hearings on this matter all winter, there certainly has been a lot of publicity and notice about this particular act, and I do not see why somebody from the Department of Justice did not have a chance to testify before the committee as to these two sections. It seems to me you have simply drawn the teeth out of this act and the act as you have written it is not worthy of passage. We might just as well stay with whatever food and drug act we have at the present time. As I see it now, anybody can go ahead committing any crime he wants to and to him they will always be minor infractions and by the time he has talked with three or four subordinates in the Department of Agriculture they will wind up in the wastebasket when they ought to appear before a grand jury.

The pro forma amendment was withdrawn.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. TOWEY].

The question was taken, and the amendment was rejected.

Mr. TOWEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TOWEY: On page 57, after line 6, change the period to a colon and insert *"Provided,* That only one warning shall be given to any person."

Mr. TOWEY. Mr. Chairman, I do not intend to take the time of the Committee, inasmuch as the distinguished chairman of the committee in charge of the bill has indicated that he has no objection to this amendment.

Mr. LEA. Mr. Chairman, I see no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The amendment was agreed to.

The Clerk read as follows:

PROCEEDINGS IN NAME OF UNITED STATES; PROVISION AS TO SUBPENAS

SEC. 307. All such proceedings for the enforcement, or to restrain violations, of this act shall be by and in the name of the United States. Notwithstanding the provisions of section 876 of the Revised Statutes, subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

CHAPTER IV—FOOD

DEFINITIONS AND STANDARDS FOR FOOD

SEC. 401. Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container: *Provided*, That no definition and standard of identity and no standard of quality shall be established for fresh fruits, fresh vegetables, butter, or cheese, except that definitions and standards of identity may be established for avocadoes, cantaloupes, citrus fruits, and melons. In prescribing any standard of fill of container, the Secretary shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material. In the prescribing of any standard of quality for any canned fruit or canned vegetable, consideration shall be given and due allowance made for the differing characteristics of the several varieties of such fruit or vegetable. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Secretary shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. Any definition and standard of identity prescribed by the Secretary for avocadoes, cantaloupes, citrus fruits, or melons shall relate only to maturity and to the effects of freezing.

Mr. BOILEAU. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BOILEAU: Page 58, line 2, strike out the words "butter or cheese" and insert in lieu thereof the following: "or butter."

Mr. BOILEAU. Mr. Chairman, I shall not take much time in discussing this amendment as I addressed myself to this particular subject earlier in the afternoon. The amendment strikes out the words "butter or cheese," page 58, line 2, and inserts in lieu thereof the words "or butter", and the effect of it is to strike out the word "cheese." This particular section provides that no definition and standard of identity, and no standard of quality shall be established for fresh fruit, fresh vegetables, butter, or cheese, except that definitions and standards of identity may be established, and so forth.

The purpose of putting that in is to take away from the Secretary the right to fix standards for cheese and butter and these other commodities. It is all right to take from the Secretary the right to issue regulations with reference to butter because butter is a standard commodity, but in case of cheese, there are many different types of cheese, imported cheese, whole-milk cheese, skim-milk cheese, and various other types, so that it is necessary to have power in the Secretary to fix these standards. The entire cheese industry favors this amendment, and I understand that the gentleman from California is willing in his own behalf, at least, to accept the amendment.

Mr. LEA. Mr. Chairman, of course, I have no authority to act for the committee in this matter. I know that the attitude of the committee was to favor the cheese industry in this amendment. I am advised by representatives of the Food and Drug Administration that the amendment is satisfactory to them. I have no objection to this amendment or to the two other amendments the gentleman proposes to offer with respect to cheese.

Mr. BOILEAU. The other two amendments are on page 92.

Mr. REES of Kansas. Do I understand the gentleman does not want to regulate those?

Mr. BOILEAU. No; we want the Secretary of Agriculture to have the right to fix standards for cheese. The language of the bill takes that right from him.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was agreed to.

Mr. LEA. Mr. Chairman, I have two other amendments which I desire to offer, and I ask the attention of the gentleman from Michigan. On page 58, after each word "fresh", add the words "or dried", so that it will read "fresh or dried fruits, fresh or dried vegetables." Through an error in rewriting an amendment, this was omitted.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from California.

The Clerk read as follows:

Amendment offered by Mr. LEA: Page 58, line 1, before the word "fruits", and before the word "vegetables", insert in each instance the words "or dried."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from California.

The amendment was agreed to.

The Clerk read as follows:

ADULTERATED FOOD

SEC. 402. A food shall be deemed to be adulterated—

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 406; or (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (5) if it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(c) If it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 406: *Provided*, That this paragraph shall not apply to citrus fruit bearing or containing a coal-tar color if application for listing of such color has been made under this act and such application has not been acted on by the Secretary, if such color was commonly used prior to the enactment of this act for the purpose of coloring citrus fruit.

(d) If it is confectionery or ice cream, and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze, harmless stabilizer or animal or vegetable origin, natural gum, and pectin: *Provided*, That this paragraph shall not apply to any confectionery or ice cream by reason of its containing less than one-half of 1 percent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

MISBRANDED FOOD

SEC. 403. A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If it is offered for sale under the name of another food.

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(f) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) If it purports to be or is represented as—

(1) a food for which a standard of quality has been prescribed by regulations as provided by section 401, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

(2) a food for which a standard or standards of fill of container have been prescribed by regulations as provided by section 401, and it falls below the standard of fill of container applicable thereto,

unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: *Provided*, That, to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary. Such clause (2) shall not apply to any proprietary food the ingredients of which have been fully and correctly disclosed to the Secretary, if compliance with such clause would give to competitors information they could not otherwise obtain.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Secretary determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary. The provisions of this paragraph and paragraphs (g) and (i) with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

(l) For the purposes of the Federal Alcohol Administration Act, as amended (U. S. C., 1934 edition, Supp. III, title 27, ch. 8), but not for the purposes of this act, if it purports to be whisky, or if it is represented as "whisky" or "whiskey" (with or without qualifying words) and it or any part of it (other than coloring and flavoring material not to exceed in the aggregate 2½ percent by volume of the product) is distilled from a source other than grain. As so misbranded it shall, notwithstanding any other provision of law, be deemed not to provide the consumer with adequate information as to its identity within the meaning of sections 5 (e) (2) and 5 (f) (2) of the Federal Alcohol Administration Act, as amended. The provisions of this paragraph shall be administered and enforced by the Federal Alcohol Administration under the provisions of the Federal Alcohol Administration Act, as amended.

EMERGENCY PERMIT CONTROL

SEC. 404. (a) Whenever the Secretary finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered interstate commerce, he then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into interstate commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the Secretary as provided by such regulations.

(b) The Secretary is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the Secretary shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended.

(c) Any officer or employee duly designated by the Secretary shall have access to any factory or establishment, the operator of which holds a permit from the Secretary, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

REGULATIONS MAKING EXEMPTIONS

SEC. 405. The Secretary shall promulgate regulations exempting from any labeling requirement of this act (1) small open containers of fresh fruits and fresh vegetables and (2) food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this act upon removal from such processing, labeling, or repacking establishment.

TOLERANCES FOR POISONOUS INGREDIENTS IN FOOD AND CERTIFICATION OF COAL-TAR COLORS FOR FOOD

SEC. 406. (a) Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice shall be deemed to be unsafe for purposes of the application of clause (2) of section 402 (a); but when such substance is so required or cannot be so avoided, the Secretary shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 402 (a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of section 402 (a). In determining the quantity of such added substance to be tolerated in or on different articles of food the Secretary shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

(b) The Secretary shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in food and for the certification of batches of such colors, with or without harmless diluents.

CHAPTER V—DRUGS AND DEVICES

ADULTERATED DRUGS AND DEVICES

SEC. 501. A drug or device shall be deemed to be adulterated—

(a) (1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by section 504.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, except that whenever tests or methods of assay have not been prescribed in such compendium, or such tests or methods of assay as are prescribed are, in the judgment of the Secretary, insufficient for the making of such determination, the Secretary shall bring such fact to the attention of the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Secretary, are sufficient for purposes of this paragraph, then the Secretary shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determination as to strength, quality, or purity shall be made. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength therefor set forth in such compendium, if its difference in strength from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States it shall be subject to the requirements of the United States Pharmacopœia unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Homœopathic Pharmacopœia of the United States and not to those of the United States Pharmacopœia.

(c) If it is not subject to the provisions of paragraph (b) of this section and its identity or strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

(e) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

MISBRANDED DRUGS AND DEVICES

SEC. 502. A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

(c) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or

sulphonmethane; or any chemical derivative of such substance, which derivative has been by the Secretary, after investigation, found to be, and by regulations designated as, habit forming; unless its label bears the name, quantity, and percentage of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

(e) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol: *Provided*, That to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary. Such clause (2) shall not (except the requirements as to alcohol) apply to any drug the ingredients of which are fully and correctly disclosed to the Secretary.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as the Secretary finds necessary for the protection of users and by regulations prescribes: *Provided*, That where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. Whenever a drug is recognized in both the United States Pharmacopœia and the Homœopathic Pharmacopœia of the United States, it shall be subject to the requirements of the United States Pharmacopœia with respect to packaging and labeling unless it is labeled and offered for sale as a homœopathic drug, in which case it shall be subject to the provisions of the Hcmœopathic Pharmacopœia of the United States, and not to those of the United States Pharmacopœia.

(h) If it has been found by the Secretary to be a drug liable to deterioration unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Secretary shall by regulations require as necessary for the protection of the public health. No such regulation shall be established for any drug recognized in an official compendium until the Secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

Mr. REES of Kansas. Mr. Chairman, I offer the amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. REES of Kansas: Page 71, line 16, after the word "Secretary", strike out the remainder of line 16 and all of lines 17, 18, and 19.

Mr. REES of Kansas. Mr. Chairman, this amendment is to section 502, and has to do with the question of misbranded drugs and devices. We have subsections (a), (b), (c), (e). These subsections describe the different types of misbranded drugs, where it is provided that if it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears the common or usual name of the drug, if such there be, and then go on and describe another class in case it is fabricated from two or more ingredients.

After making different provisos it gets down into the last one, the one we are striking out:

(2) Except the requirements as to alcohol shall not apply to any drug the ingredients of which are fully and correctly disclosed to the Secretary.

What good does it do to disclose those facts to the Secretary? Just because he knows there are certain ingredients in a certain product that are detrimental to one's health will certainly not be of any good to the child who happens to take that particular ingredient in some particular dosage. It seems to me this part of that section ought to be stricken out for the good of the bill; in other words, if you cannot describe the thing as it ought to be described, all you have to do is to write a letter to the Secretary and get around it, then you do not come within the provisions of that particular section. This part of the bill ought to be stricken out. Although we have not sustained very many amendments from the floor this afternoon, I hope that the chairman of the committee will see fit to support this particular motion and strike out this portion of the section.

Mr. LEA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the clause referred to in the sentence proposed to be stricken out by the gentleman relates to articles fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol. The section he would strike out would require a statement of ingredients on the label. The bill is not drawn on that general theory.

The theory of this particular sentence is that if there is anything wrong about the prescription the information must be given to the Secretary, who can proceed under the other provisions of the bill to prosecute if it is a case for prosecution. This section is consistent with the general purpose of the bill not requiring a disclosure of the contents of ingredients except as to certain narcotic and potent drugs.

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. REES of Kansas. The gentleman from California will observe that under subsection (e), if it is a drug and is not designated solely by a name recognized officially, then it is taken care of if the common name of the drug is used, if there be a common name; and in case it is fabricated of two or more different kinds of drugs it can be described; then it gets down to alcohol and then it gets down to the proposition that you do not even have to do that if you describe it to the Secretary. If you write a letter to the Secretary telling what is in it then you have taken care of yourself under this provision.

Mr. LEA. The drugs prescribed in the Pharmacopœia have their established ingredients. Everybody can know what such a drug is if it is properly labeled. The drug referred to under (2) is a fabricated drug composed of two or more ingredients.

The bill is not drawn on the theory of full disclosure of ingredients to the public. If we wanted a bill that required the disclosure of all the ingredients of patent medicines, or even medicines prescribed by a doctor, we could do that with certain limitations; but that is not the theory of the bill as a whole.

Mr. REES of Kansas. Mr. Chairman, will the gentleman yield further?

Mr. LEA. I yield.

Mr. REES of Kansas. Is it not the intention of this particular portion of the bill to require the description of ingredients just as far as possible?

Mr. LEA. Not as far as possible, but where necessary for the protection of the consumer, if there is a narcotic or a potent drug in the combination that is dangerous, in which case it must appear on the label. If the Secretary gets this information and finds that it is not a narcotic or a potent drug and is not dangerous to the consumer, then the manufacturer is relieved from giving that information.

Mr. REES of Kansas. That is, if the Secretary does not think it is poisonous, then the label does not have to show it. Is that what the gentleman means?

Mr. LEA. That is the idea. We assume the Food and Drug Administration is capable of determining the facts.

Mr. SIROVICH. In other words, if the gentleman will yield, we want the public to know if the fabricated medicines contain a narcotic, opiate, or any drug that is likely to prove deleterious or injurious to the human body.

Mr. LEA. Absolutely.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas.

The amendment was rejected.

Mr. PHILLIPS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. PHILLIPS: Page 70, line 5, strike out the period and insert "and if it purports to cure cancer."

Mr. PHILLIPS. Mr. Chairman, the purpose of this amendment is definitely to brand as false or misleading the advertising of any drug or device which purports to cure cancer. May I repeat the remarks I made a few minutes ago when I stated that, as you all know, only surgery, X-ray, or radium can in any way actually cure or control cancer. You cannot sell those devices because they are not devices that in actual fact can be sold for this purpose to a suffering patient, therefore anything else is a fake. Why not definitely write this into the law at this point?

A few minutes ago when I offered another amendment on this subject, the distinguished chairman of the Committee on Interstate and Foreign Commerce asked that it be voted down because, as he stated, we had law enough elsewhere covering the same subject in practically the same way. Let us take his very words. If we have law elsewhere recognizing this subject in this way, why not restate it and write it into this law at this time for the protection of the public?

I hope you will vote for my amendment.

Mr. LEA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in this case I think it is true that as a general rule it is recognized that there is no cure for cancer at the present time, although certain forms of cancer may be cured. We are hoping that the time may be here in the near future when a cure for cancer will be found. It would be unfortunate to have in the statute books of the country a provision which would prevent telling the afflicted of the country the truth and giving them the hope they want. We have a provision in here subjecting a man to prosecution for misrepresentation on the label, so far as the therapeutic value or effect of the drug is concerned. After the passage of this bill, if a man represents he has a cure for cancer when, as a matter of fact, he has not, and he puts that on the label or the accompanying material, he will be subject to prosecution.

That is a practical way of dealing with the question. We should not write into permanent law a statement that no one can cure cancer, because some of these days, I am optimistic enough to believe, a cure will be found, and we do not want a law stating that it cannot be cured.

Mr. PHILLIPS. Will the gentleman yield?

Mr. LEA. I yield to the gentleman from Connecticut.

Mr. PHILLIPS. I would like to point out to the distinguished chairman of the Committee on Interstate and Foreign Commerce a statement of fact. A reputable physician or surgeon is not going around in quack medical practice advertising cures; therefore, if a cure should be found between now and the next time this body meets, at which time the bill may be corrected if that is necessary, the gentleman may be assured if such a cure were developed it would not be advertised in charlatan fashion. I repeat, this House will meet in less than a year, and if such a cure is developed the law can be corrected. I hope you gentlemen will accept my amendment to protect the people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. PHILLIPS].

The amendment was rejected.

The Clerk read as follows:

EXEMPTIONS IN CASE OF DRUGS AND DEVICES

SEC. 503. (a) The Secretary is hereby directed to promulgate regulations exempting from any labeling or packaging requirement of this act drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs and devices are not adulterated or misbranded under the provisions of this act upon removal from such processing, labeling, or repacking establishment.

(b) A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail), shall if—

(1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and

(2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian,

be exempt from the requirements of section 502 (b) and (e), and (in case such prescription is marked by the writer thereof as not refillable or its refilling is prohibited by law) of section 502 (d).

Mr. DOXEY. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the Committee on Interstate and Foreign Commerce a question, after which time I may have an amendment to offer to section 503.

May I say to the gentleman from California [Mr. LEA], and I have discussed this briefly with him before, that in line 18, page 73, in parentheses appears this language:

Except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail.

Mr. Chairman, I am not a doctor, but I want to understand if that exempts a person who treats epileptic fits, for instance? You cannot diagnose a case of epilepsy except by what may be put in writing or unless you see the person in a spasm brought about by epilepsy. Some of them possibly may be considered doing business in the way of prescribing patent medicine, but why is it those people are not exempted from the provisions of this section? I want to know why that is. As I understand, this exception applies only to cases like asthma and epilepsy. I do not see why they should be discriminated against.

Mr. LEA. If the gentleman will yield, I may say that, of course, we have the general rule about disclosure of contents and requiring the label to show the contents of the packages. We have the general provision that doctors' labels are not required to show the contents of their prescriptions. An exception is made here against the physician who diagnoses and treats his patients by mail. The fundamental reason, as I understand it, is that in practice that method has been used for the sale of medicine rather than the practice of medicine. It furnishes a shield and a certain degree of deception to the consumer in the sale of medicine by representing to the purchaser that a doctor has prescribed it, based on his particular case. They bring in the customer and they give him the same treatment that they give everybody else, making him believe that he is being separately treated. So there is no harm, as I see it, to the physician in this case, because he may disclose his formula and use it if it does not violate the law in any respect, and if there are no opiates or narcotics in it he has a perfect right to do that.

Mr. DOXEY. May I ask the gentleman from California [Mr. LEA] if he would accept an amendment striking out the words "except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail"?

Mr. LEA. I could not do that and I would not have the authority. I believe it would be contrary to the policy the committee has in mind.

Mr. SIROVICH. Will the gentleman from Mississippi explain to me how a doctor can make a diagnosis by mail and treat a patient by mail, without it being pure quackery?

Mr. DOXEY. May I say to the gentleman from New York, who has forgotten more about medicine than I know, because I do not know anything about it, that I have in mind one particular firm. I think the chairman of the Committee on Interstate and Foreign Commerce is familiar with the firm. This firm, in my opinion, is doing a great work, because I have seen the facts demonstrated in connection with its treatment of asthma. The gentleman from New York knows what asthma is. The gentleman cannot tell how a patient should be treated for asthma without seeing him when the spasm is on, and I believe the gentleman from New York will agree with me on that.

Mr. SIROVICH. And without examining him thoroughly to find out what is the cause of it.

Mr. DOXEY. And without knowing the history of the case. I understand this medicine has the same application in regard to epileptic fits. Just because those people may be engaged in this specific work they are excepted by this measure from any exemptions. Not only are they caused to disclose their formulas, and everything else, but you say

to them, "You are excepted from this exemption just by virtue of the fact you require your patient to give you a written analysis and history of his case." Is not this discrimination?

Mr. SIROVICH. There is no discrimination.

[Here the gavel fell.]

Mr. DOXEY. I do not want to detain the Committee; but I wish to offer an amendment, which I send to the desk. If you want to discuss it further I should like to do so, and also the amendment I asked the chairman of the committee to accept and which he would not accept. I believe there is a lot of merit to this amendment.

The Clerk read as follows:

Amendment offered by Mr. DOXEY: On page 73, line 18, after the word "veterinarian", strike out "(except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail)."

Mr. MAPES. Mr. Chairman, will the gentleman from Mississippi yield?

Mr. DOXEY. I yield to the gentleman from Michigan.

Mr. MAPES. I should like to ask the chairman of the committee how long he anticipates continuing the consideration of this bill today?

Mr. LEA. I intend to move that the Committee rise as soon as this amendment is disposed of.

Mr. MAPES. The consideration of this amendment is liable to take some time. I wonder if we could not take up the amendment at the next session.

Mr. LEA. Does the gentleman from Mississippi anticipate that much time will be required in the consideration of his amendment?

Mr. DOXEY. I hesitate taking up very much time. Of course, I cannot qualify as an expert in this discussion. I do know it is far-reaching, and I believe there is considerable interest in this amendment. I believe it might be well, if the gentleman intends to move that the Committee rise just as soon as this amendment is disposed of, to let the amendment go over, and we will dispose of it on Thursday. In the meanwhile, I may get some more enlightenment and some more information in regard to the question.

Mr. LEA. Mr. Chairman, in order to find out what the Committee wants to do, I ask unanimous consent that debate on this amendment close in 5 minutes.

Mr. MARTIN of Massachusetts. Mr. Chairman, I make the point of order a quorum is not present.

Mr. LEA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and, the Speaker having resumed the chair, Mr. DRIVER, Chairman of the Committee of the Whole House on the state of the Union, reported that the Committee, having had under consideration the bill S. 5, had come to no resolution thereon.

EXTENSION OF REMARKS

Mr. MAPES. Mr. Speaker, I ask unanimous consent to revise and extend in the RECORD the remarks I made this afternoon and include therein the minority report on the food and drug bill and excerpts from laws to which I referred.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LEA. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to extend their remarks in the RECORD on this bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CANNON of Missouri. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the agricultural appropriation bill and include therein certain tables.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, I ask unanimous consent to extend in the RECORD the remarks I made this afternoon on the food and drug bill and include therein brief excerpts from two magazine articles to which reference was made in my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. BINDERUP. Mr. Speaker, owing to the lateness of the hour, I ask unanimous consent that the time that has been allotted to me to address the House today may be transferred to Thursday next.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

EXTENSION OF REMARKS

Mr. HOFFMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a short editorial by David Lawrence.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

INTERSTATE COMPACTS FOR CRIME PREVENTION

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent to address the House for 6 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SUMNERS of Texas. Mr. Speaker, I should like to direct the attention of the House to a unique movement in this country, and a very important one. There was assembled in the city of Washington today the executive committee of the Interstate Commission on Crime.

Some members of that committee are now in the gallery: Judge Richard Hartshorne, of New Jersey, chairman; Attorney General Clarence V. Beck, of Kansas; Attorney General P. Warren Green, of Delaware; Attorney General Greek L. Rice, of Mississippi; and Col. Anthony P. Sunderland, of Connecticut.

In 1932 a bill was introduced in the House providing as follows:

That the consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

I had the honor of introducing that bill. It was not approved by Congress at that session, but in 1934 I introduced a similar bill which became law.

The House Committee on the Judiciary, when it approved the bill and submitted it to Congress, presented a brief report as to the purposes of the bill. This report pointed out that, under section 10, article 1, of the Constitution—

No State shall, without the consent of Congress * * * enter into an agreement or compact with another State * * *.

In part the report of the committee read:

The rapidity with which persons may move from one State to another, those charged with crime and those who are necessary witnesses in criminal proceedings, and the fact that there are no barriers between the States obstructing this movement, makes it necessary that one of two things shall be done, either that the criminal jurisdiction of the Federal Government shall be greatly extended or that the States by mutual agreement shall aid each other in the detection and punishment of offenders against their respective criminal laws.

Since this is a matter of mutual importance and mutual interest, and subject to the control of the States, each of which is confronted with the same necessity, it seems absurd that the present handicap which they impose on each other should be continued. This bill seeks to remove the obstruction imposed by the Federal Constitution and allow the States cooperatively and by mutual agreement to work out their problems of law enforcement. Clearly the Federal Government cannot assume this jurisdiction and take over this responsibility. Its organization makes it

utterly unfitted for the purpose. The States have an adequate constabulary, the Federal Government a very limited constabulary which could be used for the purpose of enforcing any Federal laws governing new offenses under the interstate-commerce clause.

That the States have cooperated together since the passage of the Compact Consent Act has been obvious from developments subsequent.

In 1935 a Nation-wide conference of officials from the States and the Federal Government to consider ways and means of coping with the interstate criminal resulted in the establishment of an official body, the Interstate Commission on Crime. This organization, concentrating entirely in the field of crime control, has, in the past 2 years, brought about a great deal of uniformity and cooperative action by the States in combating the criminal. Four reciprocal laws have been drafted by the Commission and adopted already by 31 States, in whole or in part. These deal with extradition of criminals, the rendition of witnesses between States, the fresh pursuit of criminals across State lines, and the interstate supervision of parolees and probationers. In addition the Commission has been instrumental in obtaining the signatures of 25 States to the interstate compact for the supervision of parolees and probationers—a compact with more contracting State sovereignties than any other the country has ever seen, with the exception of the Constitution itself.

There should be on your desks tomorrow the annual report of this Commission, representative of the States and the Federal Government. You will find in it definite proof of the competency of the States to work out successfully a mutual problem.

It has been gratifying to me personally to see the response of the States to the opportunity to solve their mutual problem of crime suppression by means of interstate compacts. And I am glad to display here an original copy of the interstate compact to which I have alluded and now to be filed with the Federal Government. This compact, which is set forth in the report referred to, is tangible evidence that the States are carrying out their constitutional power of governing and cooperating "to form a more perfect union."

This movement on the part of the gentlemen who are interested in it and the States that have participated, in my judgment, is as important as any movement that has taken place in America in many a day. We have had the notion in this country that whenever a State confronts a problem that is beyond its capacity to deal with effectively, acting by itself, that the thing to do then is to come to the Federal Government and have the Federal Government assume that responsibility, offering as a good reason why the Federal Government should do it that the problem is beyond the capacity of a State to deal effectively with it.

Now, these gentlemen and the States are making a demonstration, and as we visualize the future, a tremendously important demonstration, that these States by mutual compacts and cooperation may aid each other and thereby do effectively the thing of common interest.

Those of us who have studied the history of governmental developments, and I assume we all have, know that things do not take place, governmentally, as the result of words spoken or written or the deliberation of conventions. People are drawn together and their strength and capacity are unified by doing things together which are to their mutual advantage. The world has learned a great deal about this recently. It has relearned a lesson that it ought to have known long, long ago.

We, for instance, were not confederated in this country by the Articles of Confederation. The Articles of Confederation were declaratory of an existing confederacy. The Colonies had been brought together in the French and Indian War. They were fighting the battle for their independence. Working in confederation, they had done a great many things together before the Articles of Confederation were fashioned. When we came to write the Constitution we did not create a Union by that document. The States had been united by doing things together. They had mingled their blood and their efforts in a common cause. The great value in this demonstration is that it points a way by which we may be able to preserve and really strengthen the States by having the States, as States, through State governmental machinery, attend to domestic governmental responsibility. We can thereby preserve governmental vigor by exercise, by doing the work of government through State governmental machinery instead of shifting it to the Federal organization.

There is no value to be derived from States meeting in conventions and merely resolving that they should do this, that, or the other thing. But when united by doing things together, by demonstrating by actual experience that it is possible to do things together, there is then real accomplishment not only of the specific thing done but in the effect upon the doers. We may then justify the hope, perhaps, that if these States can demonstrate in this field of common interest that by cooperative effort they can accomplish something which theretofore, or under other circumstances, they would come here to accomplish——

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent to proceed for 1 more minute.

The SPEAKER pro tempore (Mr. COOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SUMNERS of Texas. We may be able, then, to do something more than decry the centralization of governmental power here in Washington.

Mr. O'CONNOR of New York. Mr. Speaker, will the gentleman yield?

Mr. SUMNERS of Texas. I yield to my distinguished colleague from New York.

Mr. O'CONNOR of New York. Does the gentleman see any danger in cooperation among the States going too far in our plan of government?

Mr. SUMNERS of Texas. I am not sure I have in my mind the concrete situation that the gentleman from New York may have in his mind, but, of course, it could happen.

Mr. O'CONNOR of New York. I have in mind our form of government and our Federal Constitution defining the rights of the Federal Government and the rights of the States. Of course, if there were a combination among the States for certain purposes, it might be contrary to our theory of government.

Mr. SUMNERS of Texas. Yes. May I say to my friend that to guard against that happening we have the provision in the Constitution that this cannot be done except by the consent of Congress. This is the protection which the General Government has against the possibility that my distinguished friend from New York has in mind.

Mr. O'CONNOR of New York. In connection with this matter, do these States come to Congress and ask for our approval?

Mr. SUMNERS of Texas. They do not, with regard to this matter.

Mr. O'CONNOR of New York. That is what I have in mind. They might have some other matters in mind that they might attempt to work out without coming to Congress.

Mr. SUMNERS of Texas. Yes, that could happen, but Congress has gone on the theory that with regard to the suppression of crime, it is a matter that the States interested could be trusted to exercise their independent judgment about.

I appreciate very much, Mr. Speaker, this privilege of addressing the House. [Applause.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. JONES (at the request of Mr. MAHON of Texas), for today, on account of illness.

To Mr. HARRINGTON (at the request of Mr. BIERMANN), for 7 days, on account of important business.

To Mr. LORD (at the request of Mr. MARTIN of Massachusetts), indefinitely, on account of illness.

ENROLLED JOINT RESOLUTIONS AND BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H. J. Res. 693. Joint resolution making an appropriation to aid in defraying expenses of the observance of the seventy-fifth anniversary of the Battle of Gettysburg; and

H. J. Res. 687. Joint resolution to amend title VI of the District of Columbia Revenue Act of 1937.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1307. An act for the relief of W. F. Lueders;

S. 3092. An act for the relief of the Georgia Marble Co.; and

S. 3522. An act authorizing the President to present the Distinguished Service Medal to Rear Admiral Reginald Vesey Holt, British Navy, and to Capt. George Eric Maxia O'Donnell, British Navy; and the Navy Cross to Vice Admiral Lewis Gonne Eyre Crabbe, British Navy, and to Lt. Comdr. Harry Douglas Barlow, British Navy.

ADJOURNMENT

Mr. LEA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 18 minutes p. m.) the House adjourned until tomorrow, Wednesday, June 1, 1938, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON THE JUDICIARY

There will be a hearing before the Special Subcommittee on Bankruptcy of the Committee on the Judiciary at 10 a. m. on Wednesday, June 1, 1938, on H. R. 10387, to amend the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto, and for other purposes (sec. 77, relative to railroad reorganization). The hearing will be held in the Judiciary Committee room, 346 House Office Building.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Wednesday, June 1, 1938. Business to be considered: Hearing on H. R. 10127, railroad unemployment insurance; hearings on H. R. 10620, entitled "To remove existing reductions in compensation for transportation of Government property and troops incident to railroad land grants."

There will be a meeting of a subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Saturday, June 4, 1938. Business to be considered: Continuation of hearing on H. R. 4358, train dispatchers.

There will be a subcommittee meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Monday, June 6, 1938. Business to be considered: Continuation of hearing of H. R. 10348, foreign radio-telegraph communication.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1407. A letter from the Administrator of the Federal Housing Administration, transmitting the Fourth Annual Report of the Administration for the year ending December 31, 1937 (H. Doc. No. 696); to the Committee on Banking and Currency and ordered to be printed, with illustrations.

1408. A communication from the President of the United States, transmitting a supplemental estimate for the fiscal year ending June 30, 1939, for the War Department, amounting to $6,000,000 (H. Doc. No. 695); to the Committee on Appropriations and ordered to be printed.

1409. A letter from the Attorney General, transmitting the draft of a bill to amend the act of February 13, 1935, section 3, subsection (b); Forty-third Statutes 936, 939; United States Code, title 28, section 288 (b); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. O'CONNOR of New York: Committee on Rules. House Resolution 509. Resolution providing for the suspension of rules for the remainder of the third session of the Seventy-fifth Congress; without amendment (Rept. No. 2517). Referred to the House Calendar.

Mr. O'CONNOR of New York: Committee on Rules. House Resolution 512. Resolution providing for the consideration of S. 5; without amendment (Rept. No. 2518). Referred to the House Calendar.

Mr. BLAND: Committee on Merchant Marine and Fisheries. H. R. 9916. A bill to provide for the establishment of a Coast Guard station at or near Shelter Cove, Calif., without amendment (Rept. No. 2519). Referred to the Committee of the Whole House on the state of the Union.

Mr. BLAND: Committee on Merchant Marine and Fisheries. H. R. 10536. A bill authorizing the United States Maritime Commission to sell or lease the Hoboken Pier Terminals, or any part thereof, to the city of Hoboken, N. J.; with amendment (Rept. No. 2520). Referred to the Committee of the Whole House on the state of the Union.

Mr. BLAND: Committee on Marchant Marine and Fisheries. H. R. 10672. A bill to amend section 4197 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 46, sec. 91), and section 4200 of the Revised Statutes (U. S. C., 1934 ed., title 46, sec. 92), and for other purposes; without amendment (Rept. No. 2521). Referred to the Committee of the Whole House on the state of the Union.

Mr. BLOOM: Committee on Foreign Affairs. House Joint Resolution 702. Joint resolution to provide that the United States extend to foreign governments invitations to participate in the Third International Congress for Microbiology to be held in the United States during the calendar year 1939, and to authorize an appropriation to assist in meeting the expenses of the session; without amendment (Rept. No. 2524). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. SATTERFIELD: Committee on the Judiciary. H. R. 10171. A bill to amend the act entitled "An act giving jurisdiction to the Court of Claims to hear and determine the claim of the Butler Lumber Co., Inc."; without amendment (Rept. No. 2522). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUCK: A bill (H. R. 10785) to amend the Perishable Agricultural Commodities Act, 1930, as amended; to the Committee on Agriculture.

By Mr. IGLESIAS: A bill (H. R. 10786) creating the Puerto Rico Water Resources Authority, and for other purposes; to the Committee on Insular Affairs.

By Mr. PIERCE: A bill (H. R. 10787) to change the name of "Pickwick Landing Dam" to "Rankin Dam"; to the Committee on Military Affairs.

By Mr. STARNES: A bill (H. R. 10788) to establish an ordnance arsenal in the State of Alabama; to the Committee on Military Affairs.

By Mr. VOORHIS: A bill (H. R. 10789) to provide for the financing of commercial and industrial establishments and to maintain and increase the employment of labor by the creation of industrial finance banks with limited powers to

lend, acquire securities, underwrite, discount, and rediscount; to the Committee on Banking and Currency.

By Mr. BEITER: A bill (H. R. 10790) to promote peace and the national defense through a more equal distribution of the burdens of war by drafting the use of money according to ability to lend to the Government; to the Committee on Ways and Means.

By Mr. MILLS: A bill (H. R. 10791) creating the Louisiana-Vicksburg Bridge Commission; defining the authority, power, and duties of said commission; and authorizing said commission and its successors and assigns to purchase, maintain, and operate a bridge across the Mississippi River at or near Delta Point, La., and Vicksburg, Miss.; to the Committee on Interstate and Foreign Commerce.

By Mr. PIERCE: A bill (H. R. 10792) to authorize the construction of the Umatilla Dam in the Columbia River, Oreg. and Wash.; to the Committee on Rivers and Harbors.

By Mr. GEARHART: Resolution (H. Res. 513) to amend rule XXVII of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. KELLER: Joint resolution (H. J. Res. 703) to authorize the acceptance of title to the dwelling house and property, the former residence of the late Justice Oliver Wendell Holmes, located at 1720 Eye Street NW., in the District of Columbia, and for other purposes; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DORSEY: A bill (H. R. 10793) for the relief of Pauline Oettinger; to the Committee on Immigration and Naturalization.

By Mr. IZAC: A bill (H. R. 10794) for the relief of First Lt. Rosanna M. King, Army Nurse Corps, retired; to the Committee on Naval Affairs.

By Mr. LEWIS of Colorado: A bill (H. R. 10795) for the relief of Ben F. Mitchell; to the Committee on Claims.

By Mr. O'BRIEN of Michigan: A bill (H. R. 10796) granting a pension to Arminta B. Chesnut; to the Committee on Invalid Pensions.

By Mr. REECE of Tennessee: A bill (H. R. 10797) granting a pension to Martha Samsel; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

5250. By Mr. BROOKS: A petition of the Legislature of Louisiana, asking for the amendment of the Social Security Act so that employees of 55 years and older may participate in pensions; to the Committee on Ways and Means.

5251. Also, petition of the General Assembly of Louisiana, asking for amendment of social-security law so that Federal Government may supply all funds which may be disbursed by several States; to the Committee on Ways and Means.

5252. Also, petition of the General Assembly of Louisiana asking that Social Security Act be so amended as to make findings of Public Welfare Department conclusive as to eligibility; to the Committee on Ways and Means.

5253. Also, petition of the House of Representatives of Louisiana endorsing the National Youth Administration program and urging its continuation and expansion; to the Committee on Appropriations.

5254. Also, petition of the Legislature of Louisiana endorsing Senate bill 419 and House bill 10340, urging Federal financial aid to education; to the Committee on Appropriations.

5255. By Mr. DEROUEN: House Concurrent Resolution No. 7, by Mr. Peters, of the Legislature of the State of Louisiana, petitioning the Congress of the United States to amend the Social Security Act; to the Committee on Ways and Means.

5256. Also, House Concurrent Resolution No. 6, by Mr. Peters, of the Legislature of the State of Louisiana, petitioning the Congress of the United States to amend the Social Security Act; to the Committee on Ways and Means.

5257. Also, House Concurrent Resolution No. 10, by Messrs. Eastland and McCurnin, of the Legislature of the State of Louisiana, petitioning the Congress of the United States to amend the Social Security Act; to the Committee on Ways and Means.

5258. Also, House Resolution No. 4, by Mr. Riddle, of the Legislature of the State of Louisiana, commending the National Youth Administration and its programs; to the Committee on Appropriations.

5259. Also, House Concurrent Resolution No. 11, by Mr. Frazar, of the Legislature of the State of Louisiana, petitioning Congress to enact into law House bill 10340 and Senate bill 419; to the Committee on Education.

5260. By Mr. HOPE: Petition of Rev. D. H. Switzer and 560 other citizens of Rice County, Kans., urging the enactment of legislation which will prohibit advertising alcoholic beverages in the press and radio; to the Committee on Interstate and Foreign Commerce.

5261. By Mr. LUTHER A. JOHNSON: Memorial of Maggie W. Barry, extension adviser, rural organization work, College Station, Tex., favoring House bill 9909, to the Committee on Interstate and Foreign Commerce.

5262. Also, petition of Terry McCary, of Corsicana, Tex., opposing Senate bill 153, the Neely block-booking bill; to the Committee on Interstate and Foreign Commerce.

5263. By Mr. KENNEDY of New York: Petition of the Catholic Daughters of America, South Orange, N. J., numbering 200,000 members, established in 45 States, urging adoption of the Neely bill (S. 153); to the Committee on Interstate and Foreign Commerce.

5264. By Mr. KEOGH: Petition of the Allied States Association of Motion Picture Exhibitors, Washington, D. C., concerning Senate bill 153, to prevent the compulsory block booking and blind selling of motion pictures; to the Committee on Interstate and Foreign Commerce.

5265. Also, petition of the National Congress of Parents and Teachers, Washington, D. C., concerning the Neely bill (S. 153); to the Committee on Interstate and Foreign Commerce.

5266. Also, petition of the Fifth Estate Club, New York City, concerning Senate bills 4042 and 4043, pertaining to World War provisional officers; to the Committee on Military Affairs.

5267. By Mr. KRAMER: Resolution of the City Council of Long Beach, Calif., relative to requesting the Congress to assist in the defeat of a proposed joint resolution relating to oil deposits underlying the submerged lands along the coast of the State of California; to the Committee on the Public Lands.

5268. Also, resolution of the Barbecue Committee of Sunland, Calif., relative to House bill 4199; to the Committee on Ways and Means.

5269. Also, resolution of the board of directors of Alhambra Chamber of Commerce, relative to the National Labor Relations Act, etc.; to the Committee on Labor.

5270. Also, resolution of the Los Angeles County Democratic Central Committee, relative to letter emanating from Adohr Milk Farm to employees in re New Deal policies, taxation, etc.; to the Committee on Ways and Means.

5271. Also, resolution of the Los Angeles County Democratic Central Committee, relative to Spanish embargo, etc.; to the Committee on Ways and Means.

5272. Also, resolution of the Board of Supervisors of the County of Los Angeles, State of California, relative to passage of House bill 4199; to the Committee on Ways and Means.

5273. Also, resolution of board of governors of the State bar of California, relative to Senate bill 3212; to the Committee on the Judiciary.

5274. By Mr. LEAVY: Resolution of the board of directors of the Chattaroy, Cheney, Deer Park, Foothills, Spokane County, and Spokane Valley National Farm Loan Associa-

tions, and signed by the president, vice president, and directors thereof, urging the congressional delegation of our State to work for farm legislation that will bring to the farmer a reasonable return above the cost of production, to which he is justly entitled, and further that the farmer should be charged interest rates comparable to those paid by industry such as the rate at present in effect on Federal Land Bank loans, which rate should be continued permanently by act of Congress; to the Committee on Agriculture.

5275. By Mr. WIGGLESWORTH: Petition of the members of the Federation of State, City, and Town Employees, residing in the Commonwealth of Massachusetts; to the Committee on the Civil Service.

5276. By the SPEAKER: Petition of the Seibert Evangelical Congregational Church, Allentown, Pa., petitioning consideration of their request dated May 26, 1938; to the Committee on Appropriations.

5277. Also, petition of the City Council of the City of New York, petitioning consideration of their resolution G. O. 34 (Res. No. 49) with reference to Home Owners' Loan Corporation Act; to the Committee on Banking and Currency.

5278. Also, petition of Commissioner Anderson for the entire Board of Commissioners of the County of St. Louis, State of Minnesota, petitioning consideration of their resolution dated May 24, 1938, concerning House bill 4199, known as the General Welfare Act, to the Committee on Ways and Means.

SENATE

WEDNESDAY, JUNE 1, 1938

(Legislative day of Wednesday, April 20, 1938)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, May 31, 1938, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 10737. An act to authorize the Secretary of War to grant rights-of-way for highway purposes and necessary storm sewer and drainage ditches incident thereto upon and across Kelly Field, a military reservation in the State of Texas; to authorize an appropriation for construction of the road, storm sewer, drainage ditches, and necessary fence lines; and

H. J. Res. 631. Joint resolution to provide for the erection of a monument to the memory of Gen. Peter Gabriel Muhlenberg.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 52), in which it requested the concurrence of the Senate, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed 38,000 additional copies of Public Law No. 554, current Congress, entitled "An act to provide revenue, equalize taxation, and for other purposes," of which 25,000 copies shall be for the use of the House document room, 10,000 copies for the use of the Senate document room, 2,000 copies for the use of the Committee on Ways and Means of the House of Representatives, and 1,000 copies for the use of the Committee on Finance of the Senate.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bill and joint resolutions, and they were signed by the Vice President:

S. 3843. An act to remove certain inequitable requirements for eligibility for detail as a member of the General Staff Corps;

H. J. Res. 687. Joint resolution to amend title VI of the District of Columbia Revenue Act of 1937; and

H. J. Res. 693. Joint resolution making an appropriation to aid in defraying expenses of the observance of the seventy-fifth anniversary of the Battle of Gettysburg.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson, Colo.	Pittman
Andrews	Copeland	King	Pope
Ashurst	Davis	La Follette	Radcliffe
Austin	Dieterich	Lee	Russell
Bailey	Donahey	Lodge	Schwartz
Bankhead	Duffy	Logan	Schwellenbach
Barkley	Ellender	Lonergan	Sheppard
Berry	Frazier	Lundeen	Shipstead
Bilbo	George	McAdoo	Smathers
Bone	Gerry	McCarran	Smith
Borah	Gibson	McGill	Thomas, Utah
Brown, Mich.	Green	McKellar	Townsend
Brown, N. H.	Guffey	McNary	Truman
Bulkley	Hale	Maloney	Tydings
Bulow	Harrison	Miller	Vandenberg
Burke	Hatch	Milton	Van Nuys
Byrd	Hayden	Minton	Wagner
Byrnes	Herring	Murray	Walsh
Capper	Hill	Neely	Wheeler
Caraway	Hitchcock	Norris	White
Chavez	Hughes	Overton	
Clark	Johnson, Calif.	Pepper	

Mr. MINTON. I announce that the Senator from Oregon [Mr. REAMES] is detained from the Senate because of illness.

The Senator from Iowa [Mr. GILLETTE], the Senator from Virginia [Mr. GLASS], the Senator from West Virginia [Mr. HOLT], the Senator from Illinois [Mr. LEWIS], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Oklahoma [Mr. THOMAS] are detained from the Senate on important public business.

Mr. AUSTIN. The Senator from New Hampshire [Mr. BRIDGES] is absent on account of the death of his wife.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

INVESTIGATION OF SENATORIAL CAMPAIGN EXPENDITURES

The VICE PRESIDENT. The Chair appoints the Senator from Texas [Mr. SHEPPARD], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Michigan [Mr. BROWN], the Senator from Nebraska [Mr. NORRIS], and the Senator from Vermont [Mr. AUSTIN] as members of the Special Committee to Investigate Senatorial Campaign Expenditures for 1938, authorized by Senate Resolution 283 (agreed to May 27, 1938).

Mr. McNARY subsequently said: Mr. President, earlier in the day the Vice President conferred with me concerning the personnel of the committee to be appointed under Senate Resolution 283. I recommended for the consideration of the Vice President the name of the Senator from Vermont [Mr. AUSTIN]. My attention has been called to the language on page 2 of the resolution, as follows:

No Senator shall be appointed on said committee from a State in which a Senator is to be elected in the general election of 1938.

That language disqualifies the Senator from Vermont. I regret that I had not read the resolution, and was not familiar with that language. I beg the pardon of the Vice President. I now suggest the name of the Senator from Maine [Mr. WHITE].

The VICE PRESIDENT. The Chair desires to assume equal responsibility for having made the error. Probably he is more responsible than is the Senator from Oregon, because he had before him the list, as well as the resolution. Without objection, the name of the Senator from Maine [Mr. WHITE] will be substituted for that of the Senator from Vermont [Mr. AUSTIN].

Mr. NORRIS. Mr. President, while this matter is before us, permit me to say that I was absent from the Chamber when the appointments were made, and I have just had my